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Contents

Federal Register

Vol. 57, No. 242

Wednesday, December 16, 1992

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol 57, No. 242
Wednesday, December 16, 1992

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-89-AD; Amendment 39-8437; AD 92-27-04]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires structural inspections of older airplanes. This amendment is prompted by reports of recent incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design life goal. The actions specified by this AD are intended to prevent degradation in the structural capabilities of the affected airplanes. This proposal also relates to the recommendations of the Airworthiness Assurance Task Force assigned to review Model 747 series airplanes, which indicate that, to assure long term continued operational safety, various structural inspections should be accomplished.

DATES: Effective January 20, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 20, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven C. Fox, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (206) 227-2777; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on May 28, 1992 (57 FR 22445). That action proposed to require structural inspections of older airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters support the proposed rule.

One commenter requests that service bulletins that are referenced in Section 4 of Boeing Document No. D6-35999, Revision C, dated January 21, 1992, and that are the subject of other existing AD's, be exempt from the requirements of this AD in order to avoid dual compliance requirements. The FAA concurs. A new paragraph (e) has been added to the final rule to specify that service bulletins listed in the Boeing Document, which are addressed by other separate AD's, are excluded from this rulemaking action.

The same commenter further requests that Appendices B-2 and B-4 of the Boeing Document be excluded as source of service information for the proposed rule because the data is misleading. The FAA concurs. Although both paragraphs (a) and (b) of the final rule clearly state that Section 4 of the Boeing Document is the appropriate source of service information, a note has been added to the final rule to indicate that only Section 4, excluding the appendices, is to be used as the appropriate source of service information.

Another commenter requests that each of the service bulletins referenced in the Boeing Document be addressed in separate rulemaking actions to ease scheduling of, compliance with, and control over each requirement. The FAA does not concur. To issue twenty separate rulemaking actions, one for each service bulletin, would significantly prolong the effective date by which the requirements of this AD must be accomplished; therefore, safety of the fleet would be adversely affected. Further, the FAA proposed this one single rulemaking action based upon the recommendations of the Airworthiness Assurance Task Force, and with input from representatives of aircraft operators, manufacturers, regulatory authorities, and other aviation representatives.

Another commenter requests that the proposed repetitive inspection interval of 600 flight cycles be extended to 1,200 flight cycles for those airplanes that have been modified in accordance with Boeing Service Bulletin 747-57-2218, Revision 2. That modification entails replacing the fitting with 7/16-inch bolts in oversized bolt holes with wet sealant. The FAA does not concur. Those operators who choose to perform the modification may request an adjustment to the compliance time under the provisions of paragraph (e) of this AD, provided that sufficient data are presented to the FAA to justify such an extension.

The same commenter further requests that the threshold for the inspections commence at 10,000 flight cycles for those airplanes that had been modified in accordance with Boeing Service Bulletin 747-57-2218, Revision 2. To substantiate this request, the commenter notes that, thus far, no defective bolts have been found on modified airplanes in its fleet at 10,000 flight cycles. The FAA does not concur. Since all operators have not modified their fleet in accordance with the referenced service bulletin, those operators who have modified their airplanes may apply for an alternative method of compliance under the provisions of paragraph (e) of this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 680 Model 747 series airplanes of the affected

design in the worldwide fleet. The FAA estimates that 170 airplanes of U.S. registry will be affected by this AD, that it will take approximately 480 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,488,000, or $26,400 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034), February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-27-04. Boeing: Amendment 39-8437. Docket 92-NM-89-AD.

Applicability: Model 747 series airplanes; as listed in Section 4 of Boeing Document Number D6-35999, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision C, dated January 21, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent degradation of the structural capability of the airplane, accomplish the following:

Note: Refer only to Section 4 of Boeing Document D6-35999; the appendices are not the subject of this AD.

(a) Except as provided in paragraph (e) of this AD, accomplish the inspections specified in Section 4 of Boeing Document No. D6-35999, Revision C, dated January 21, 1992, within the times specified in paragraph (b) of this AD, and thereafter at intervals not to exceed those specified in the corresponding service bulletin for the inspection.

(b) The maximum initial inspection times for the inspections contained in Section 4 of Boeing Document No. D6-35999, Revision C, dated January 21, 1992, shall be the later of the time specified in either paragraph (b)(1) or (b)(2) of this AD:

(1) The threshold for inspection time for the inspection specified in the corresponding service bulletin, measured as a total (flight cycles, time-in-service, as appropriate) accumulated on the airplane; or

(2) The phase-in period for the inspection specified in the corresponding service bulletin, measured from the effective date of this AD.

(c) If any of the discrepant conditions identified in the service bulletins are found as a result of the inspections required by this AD, the corresponding corrective action specified in the service bulletins must be accomplished prior to further flight.

(d) The terminating action for each inspection required by paragraph (a) of this AD consists of the accomplishment of the modification specified in the corresponding service bulletin.

(e) Notwithstanding the references in Section 4 of Boeing Document No. D6-35999, Revision C, dated January 21, 1992, to the following list service bulletins, this AD does not require inspections in accordance with those service bulletins:

Service bulletin No.	Revision level	Service bulletin date
747-27A2253	4	Jan. 25, 1990.
747-32-2190	4	Oct. 26, 1989.
747-53-2253	2	Mar. 29, 1990.
747-53-2265	7	Jan. 25, 1990.
737-53-2283	3	Nov. 1, 1989.
747-53-2289	1	Jan. 26, 1989.
747-52-2186	4	Oct. 24, 1991.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) The inspections and corrective actions shall be done in accordance with Section 4 of Boeing Document No. D6-35999, Revision C, dated January 21, 1992, which contains the following list of effective pages:

Note: Except for the title page of the document, no other pages of the document are dated.

Page No.	Revision level shown on page
a, c, d, d.1, e, f, 2.0.1, 3.1.1, 3.2.1, 3.2.2, 3.2.3, 3.3.1, 3.4.1, 4.0.1, 4.1.1, 4.2.1, 4.2.2, 4.3.1, 4.3.2, 4.3.3, 5.1.1, 5.1.2, A.3.1, B.1.1, B.2.1, B.3.1, B.4.1.	C
3.0.1, A.1.1, A.2.1	B
1.2.2, 5.0.1	A
b, 1.1.1, 1.2.1, 2.0.2	(Original)

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on January 20, 1993.

Issued in Renton, Washington, on December 8, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-30446 Filed 12-15-92; 8:45 am]

BILLING CODE 4910-13-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Privacy Act; Implementation

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority is amending its Privacy Act regulations to reflect the establishment of a new Privacy Act system of records.

EFFECTIVE DATE: December 16, 1992.

FOR FURTHER INFORMATION CONTACT: Mark R. Winter, TVA, 1101 Market Street (MR 2F), Chattanooga, TN 37402-2801, telephone number: (615) 751-2523.

SUPPLEMENTARY INFORMATION: On October 7, 1992, (57 FR 46231–46232) TVA published a notice of a new Privacy Act system of records entitled "Section 26a Permit Application Records—TVA." TVA is therefore updating its regulations at 18 CFR Part 1301 to reflect that new system of records.

This rule was not published in proposed form since it relates to agency practice. Since this rule is nonsubstantive, it is being made effective immediately, December 16, 1992.

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure, Freedom of Information, Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, title 18, chapter XIII of the Code of Federal Regulations is amended as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301, subpart B, continues to read as follows:

Authority: 16 U.S.C. 831–831dd, 5 U.S.C. 552a.

2. Section 1301.12 is amended by revising paragraph (d) to add the title of the new system of records to read as follows:

§ 1301.12 Definitions.

* * * * *

(d) The term *TVA system notice* means a notice of a TVA system published in the **Federal Register** pursuant to the Act. TVA has published TVA system notices about the following TVA systems:

Apprentice Training Record System—TVA.
Personnel Files—TVA.
Upgrade Craft Training Program—TVA.
Demonstration Farm Records—TVA.
Discrimination Complaint Files—TVA.
Employee Accident Information System—TVA.
Employee Accounts Receivable—TVA.
Employee Alleged Misconduct Investigatory Files—TVA.
Medical Record System—TVA.
Employee Statement of Employment and Financial Interests—TVA.
Payroll Records—TVA.
Travel History Records—TVA.
Employment Applicant Files—TVA.
Grievance Records—TVA.
LAND BETWEEN THE LAKES® Hunter Records—TVA.
LAND BETWEEN THE LAKES® Register of Law Violations—TVA.
Employee Supplementary Vacancy Announcement Records—TVA.
Consultant and Personal Service Contractor Records—TVA.
Nuclear Quality Assurance Personnel Records—TVA.
Questionnaire—Farms in Vicinity of Proposed or Licensed Nuclear Power Plant—TVA.
Radiation Dosimetry Personnel Monitoring Records—TVA.
Retirement System Records—TVA.
Test Demonstration Farm Records—TVA.
Woodland Resource Analysis Program Input Data—TVA.
Electricity Use, Rate, and Service Study Records—TVA.
LAND BETWEEN LAKES® Mailing Lists—TVA.
OIG Investigative Records—TVA.
Call Detail Records—TVA.
Office of Nuclear Power Call Detail Records—TVA.
Project/Tract Files—TVA.
Building Access Security Records—TVA.
Section 26a Permit Applications—TVA.

* * * * *

John J. O'Donnell,
Vice President, Facilities Services.

[FR Doc. 92–30473 Filed 12–15–92; 8:45 am]
BILLING CODE 8120–08M

OFFICE OF NATIONAL DRUG CONTROL POLICY

21 CFR Part 1401

Public Availability of Information

AGENCY: Office of National Drug Control Policy.

ACTION: Final rule.

SUMMARY: The Freedom of Information Act (FOIA) requires every Federal agency to make available to the public official documents and other records upon request, unless the material requested falls under one of several limited exceptions. FOIA also requires agencies to publish rules stating the time, place, fees, and procedures to apply in making records available to any person upon request. Further, section 1803 of the Freedom of Information Reform Act of 1986 requires each agency to establish a system for recovering costs associated with responding to requests for information under FOIA. The Office of Management and Budget (OMB) has issued guidelines that set standard governmentwide definitions for assessing and collecting FOIA fees (OMB Fee Guidelines).

This final rule describes the procedures to be followed in submitting a FOIA request to the Office of National Drug Control Policy (ONDCP) and the procedures that ONDCP will use in responding to such requests. Included are provisions for assessing and collecting fees from FOIA requesters in accordance with the OMB Fee Guidelines.

EFFECTIVE DATE: This regulation is effective on February 16, 1993.

FOR FURTHER INFORMATION CONTACT: Matthew C. Ames, Office of the General Counsel, Office of National Drug Control Policy, Washington, DC 20500, (202) 467–9840.

SUPPLEMENTARY INFORMATION: The Office of National Drug Control Policy was created by the Anti-Drug Abuse Act of 1988, Public Law 100–690, 21 U.S.C. 1501 *et seq.*, and was charged with the development and coordination of national policy toward illegal drugs.

ONDCP published proposed regulations on October 1, 1992 (57 FR 45353). No comments were received, and the final rule is identical to the proposed rule.

List of Subjects in 21 CFR Part 1401

Archives and records, Freedom of information, Records.

For the reasons set out in the preamble, title 21, chapter III of the Code of Federal Regulations is amended by adding a new part 1401 to read as follows:

PART 1401—PUBLIC AVAILABILITY OF INFORMATION

Sec.
1401.1 Purpose.
1401.2 The Office of National Drug Control Policy—Organization and functions.
1401.3 Definitions.
1401.4 Records of other agencies.
1401.5 How to request records—form and content.
1401.6 Initial determination.
1401.7 Prompt response.
1401.8 Response—form and content.
1401.9 Appeal procedures.
1401.10 Fee Schedule.
1401.11 Payment of fees.
1401.12 Waiver of fees.
1401.13 Aggregation of requests.
1401.14 Records that are exempt from disclosure.
1401.15 Deletion of exempted information.

Authority: 5 U.S.C. 552, as amended.

§ 1401.1 Purpose.

The purpose of this part is to prescribe rules, guidelines and procedures to implement the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended.

§ 1401.2 The Office of National Drug Control Policy—Organization and Functions.

(a) The Office of National Drug Control Policy (ONDCP) was created by the Anti-Drug Abuse Act of 1988, 21 U.S.C. 1501 *et seq.* The mission of ONDCP is to coordinate the anti-drug efforts of the various agencies and departments of the Federal government, to consult with States and localities and assist their anti-drug efforts, and to annually promulgate the National Drug

Control Strategy. ONDCP is headed by the Director of National Drug Control Policy. The Director is assisted by a Deputy Director for Supply Reduction, a Deputy Director for Demand Reduction, and an Associate Director for State and Local Affairs.

(b) ONDCP has an Office of Public Affairs that is responsible for providing information to the press and to the general public. If members of the public have general questions about ONDCP that can be answered by telephone, they may call the Office of Public Affairs at (202) 467–9890. This number should not be used to make FOIA requests. All oral requests for information under FOIA will be rejected.

§ 1401.3 Definitions.

As used in this part, the following definitions shall apply:

(a) *Commercial-use request* means a request from or on behalf of one who seeks information for a cause or purpose that furthers the commercial, trade or profit interests of the requester or the person or institution on whose behalf the request is made. In determining whether a requester properly belongs in this category, ONDCP will consider how the requester intends to use the documents.

(b) *Direct costs* means those expenditures that ONDCP actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(c) *Duplication* means the process of making a copy of a document in response to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation. ONDCP will provide a copy of the material in a form that is usable by the requester unless it is administratively burdensome to do so.

(d) *Educational institution* means preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research

(e) *Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis as that term is referenced above, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(f) *Records* and/or *information* means all books, papers, manuals, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by ONDCP and preserved or appropriate for preservation by ONDCP as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the information value of the data in them, but does not include books, magazines or other material acquired solely for library purposes and through other sources, and does not include analyses, computations, or compilations of information not extant at the time of the request. The term "records" does not include objects or articles such as structures, furniture, paintings, sculptures, three-dimensional models, vehicles, and equipment.

(g) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") that make their products available for purchase or subscription by the general public. Freelance journalists may be regarded as working for a news organization if they can demonstrate a reasonable basis for expecting publication through that organization, even though not actually employed by it.

(h) *Request* means a letter or other written communication seeking records or information under FOIA.

(i) *Review* means the process of examining documents located in response to a commercial-use request to determine if that document or any portion of that document is permitted to be withheld. It also includes processing any document for disclosure (i.e., doing all that is necessary to excise those portions of the document not subject to disclosure under FOIA and otherwise preparing them for release). Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(j) *Search* means all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches should be performed in the most efficient and least expensive manner so as to minimize costs for both ONDCP and the requester; for example, line-by-line searches should not be undertaken when it would be more efficient to duplicate the entire document. Searches should be distinguished from "review" of material in order to determine whether the material is exempt from disclosure. Searches may be done manually or by computer using existing programming.

§ 1401.4 Records of other agencies.

Requests for records that originated in another agency and are in the custody of ONDCP shall be referred to the originating agency for processing, and the person submitting the request shall be so notified. Any decision made by the originating agency with respect to such records will be honored by ONDCP.

§ 1401.5 How to request records—form and content.

(a) Requests for records under FOIA must be submitted in writing, addressed to: Office of the General Counsel, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20500. The words "FOIA REQUEST" or "REQUEST FOR RECORDS" must be clearly marked on both the letter and the envelope. If the request is not so marked and addressed, the 10-day time limit imposed by § 1401.7 of this part shall not begin to run until the request has been received by the Office of the General Counsel and identified as a FOIA request. Due to security requirements, FOIA requests may not be delivered in person.

(b) Any ONDCP employee who receives a request shall promptly forward it to the Office of the General Counsel. Any ONDCP employee who receives an oral request made under the FOIA shall inform the person making the request of the provisions of this part requiring a written request.

(c) Each request must reasonably describe the record(s) sought, including when known: The specific event or action to which the request refers, if any; the name of the agency, office, organization or person that originated the record; the date or time period to which the request refers; the subject matter of the records requested; the type of document requested; the location of the record(s) requested; and any other pertinent information that would assist in promptly locating the record(s).

(d) When a request is not considered reasonably descriptive, or requires the production of voluminous records, or places an extraordinary burden on ONDCP, seriously interfering with its normal functioning to the detriment of the business of the Government, ONDCP may require the person or agent making the FOIA request to confer with an ONDCP representative in order to attempt to verify, and, if possible, narrow the scope of the request.

(e) Upon initial receipt of a request, the Office of the General Counsel shall determine which official or officials within ONDCP shall have the primary responsibility for collecting and reviewing the requested information and drafting a proposed response.

§ 1401.6 Initial determination.

The General Counsel or his or her designee shall have the authority to approve or deny requests received pursuant to these regulations. The decision of the General Counsel shall be final, subject only to administrative review as provided in § 1401.9.

§ 1401.7 Prompt response.

(a) The General Counsel or his or her designee shall either approve or deny a request for records within 10 working days (excluding Saturday, Sunday and Federal holidays) after receipt of the request unless additional time is required for one of the following reasons:

(1) It is necessary to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; or

(2) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of ONDCP that have a substantial interest in the subject matter of the request.

(b) When additional time is required for one of the reasons stated in paragraph (a) of this section, the General Counsel or his or her designee shall acknowledge receipt of the request within the 10 working day period and include a brief explanation of the reason for delay, indicating the date by which a determination will be forthcoming. An extended deadline adopted for one of the reasons set forth above may not exceed 10 additional working days.

§ 1401.8 Responses—form and content.

(a) When a requested record has been identified and is available, the General Counsel or his or her designee shall notify the person making the request as to where and when the record will be available for inspection or the copies will be available. The notification shall also advise the person making the request of any fees assessed under § 1401.10 of this part.

(b) A denial or partial denial of a request for a record shall be in writing signed by the General Counsel or his or her designee and shall include:

(1) The name and title of the person making the determination;

(2) Either a reference to the specific exemption under FOIA authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld, or a statement that, after diligent effort, the requested records have not been found or have not been adequately examined during the time allowed by § 1401.7, and that the denial will be reconsidered as soon as the search or examination is complete; and

(3) A statement that the denial may be appealed to the Director within 30 days of its receipt by the requester.

(c) If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the person making the request shall be so notified and the legal authority for disposition shall be cited.

§ 1401.9 Appeal procedures.

(a) When the General Counsel or his or her designee denies a request for records in whole or in part, the person making the request may, within 30 days of receipt of the notice of denial, appeal the denial to the Director of ONDCP. The appeal must be in writing, addressed to the Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20500. The envelope should be clearly labeled as a "Freedom of Information Act Appeal."

(b) The Director will act upon the appeal within 20 working days of its receipt. The Director may extend the 20-day period of time by any number of working days which could have been used by the General Counsel or his or her designee under § 1401.7 but which were not used in making the initial determination. The Director's action on an appeal shall be in writing and signed.

(c) If the decision is in favor of the requester, the Director shall order records promptly made available to the requester.

(d) A denial in whole or in part of a request on appeal shall set forth a brief explanation of the reasons for the decision, and shall inform the requester of his or her right to seek judicial review of the denial and ruling on appeal as provided in 5 U.S.C. 552(a)(4).

(e) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an appeal to the Director.

§ 1401.10 Fee schedule.

(a) There are four categories of requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. FOIA prescribes different levels of fees for each of these categories.

(1) *Commercial use requesters.* When a request for records is made for commercial use, charges will be assessed to cover all the costs of searching for, reviewing for release, and duplicating the records sought.

(2) *Educational and non-commercial scientific institutions.* When a request for records is made by an educational or a non-commercial scientific institution in furtherance of scholarly or scientific research, charges will be assessed to cover the cost of duplication alone, excluding charges for duplication of the first 100 pages.

(3) *Requests by representatives of the news media.* When a request for records is made by a representative of the news media for the purpose of news dissemination, charges will be assessed to cover the cost of duplication alone, excluding charges for duplication of the first 100 pages.

(4) *All other requests.* When a request for records is made by a requester who does not fit into any of the preceding categories, charges will be assessed to cover the costs of searching for and duplicating the records sought, excluding charges for the first two hours of search time and the duplication of the first 100 pages. Moreover, requests from individuals for records about themselves will be treated under the Privacy Act of 1974, 5 U.S.C. 552a, which permits the assessment of fees for duplication costs only, regardless of the requester's characterization of the search.

(b) Fees for searches, review of records and duplication of records are charged as follows:

(1) *Search for records.* The charge for a manual search is calculated by determining the search time to the nearest quarter hour and multiplying that figure by the sum of the basic rate of pay per hour of the employee conducting the search plus 16 percent of that rate. The charge for a computer search is calculated by determining the search time to the nearest quarter hour and multiplying that figure by the sum of the basic rate of pay per hour of the employee conducting the search, plus

16 percent of that rate, plus the direct cost of the operation of the computer for that portion of time attributable to the search.

(2) *Review of records.* Only requesters who are seeking documents for commercial use will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges will be assessed only for the initial review; i.e., the review undertaken the first time ONDCP analyzes the applicability of a specific exemption to a particular record or portion of a record. Charges will not be assessed for review at the administrative appeal level of the exemption(s) already applied. The cost for review will be calculated based on the salary of the category of the employee who actually performed the review plus 16 percent of that rate.

(3) *Duplication of records.* Copies made by routine photostatic copying shall be charged at the rate of $0.15 per page. If copies need to be made by other methods, the direct costs of such copies will be charged to the requester, as determined by the General Counsel.

(4) *Unsuccessful searches.* Requesters may be charged for unsuccessful or unproductive searches or for searches when records located are determined to be exempt from disclosure.

(5) *Other charges.* ONDCP will recover the direct costs of providing special services such as certifying that records are true copies, and sending records by special methods such as express mail.

(c) No fee will be charged by ONDCP when the routine costs of collecting and processing the fee equal to or exceed the amount of the fee. For purposes of this section, the routine costs of collecting and processing a fee chargeable under FOIA are estimated to be $15.00 for each FOIA request.

§ 1401.11 Payment of Fees.

(a) The requester must agree to pay all fees that are chargeable under this section prior to issuance of the requested copies.

(b) Payment of fees shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasurer of the United States and mailed to the General Counsel, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20500.

(c) If it is anticipated that the fees chargeable under this section will amount to more than $25.00, and the requester has not indicated in advance his willingness to pay such fees, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will exceed $250.00, an advance deposit may be required. The notice or request for an advance deposit shall extend to the requester an offer to consult with ONDCP personnel in order to reformulate the request in a manner which will reduce the fees. A reformulated request shall be considered a new request, thus beginning a new 10 workday period for responding to the request.

(d) When a requester has previously failed to pay a fee in a timely fashion (i.e., within 30 days of the date of the billing), ONDCP may require the requester to demonstrate that he or she has, in fact, paid any outstanding fees from past requests, and to make an advance payment of the full amount of the estimated fee for the present request before ONDCP responds to that request.

(e) Interest charges on an unpaid bill may be assessed starting on the 31st day following the day on which the billing was sent. Interest shall be assessed at the rate prescribed in 31 U.S.C. 3717, and shall accrue from the date of the billing. The fact that a fee has been received by ONDCP, even if not processed, will suffice to stay the accrual of interest.

(f) To encourage the repayment of delinquent fees, ONDCP shall use the procedures described in the Debt Collection Act of 1982, 31 U.S.C. 3716–3719, including the use of collection agencies and disclosure to consumer reporting agencies.

§ 1401.12 Waiver of fees.

(a) Records shall be furnished without charge, or at a reduced charge, upon a determination by the General Counsel of ONDCP that:

(1) Waiver or reduction of the fees is in the public interest because release of the requested information is likely to contribute significantly to public understanding of the operations or activities of ONDCP and is not primarily in the commercial interest of the requester; or

(2) Assessment of fees is not feasible.

(b) Upon written request, a written explanation will be provided as to why a request for waiver or reduction of FOIA fees was not granted.

(c) There is no right to an administrative appeal from a decision not to waive or reduce fees.

§ 1401.13 Aggregation of requests.

(a) When the General Counsel reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break down a request into a series of requests for the purpose of evading the assessment of fees, such requests may be aggregated and fees may be charged accordingly.

(b) In determining whether a series of requests shall be aggregated, the General Counsel will consider two factors: whether the requests concern a single subject or two or more closely related subjects; and whether the requests were all made within a 30-day period. If a series of requests is made by multiple requesters, the General Counsel will also consider whether there is substantial evidence to support the conclusion that the requesters are acting in concert.

§ 1401.14 Records that are exempt from disclosure.

(a) Records described in 5 U.S.C. 552(b) are exempt from disclosure under FOIA. These include the following categories of records:

(1) Records that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of an agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute:

(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Records of trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

§ 1401.15 Deletion of exempted information.

When requested records contain matters that are exempted under 5 U.S.C. 552(b), but such exempted matters are reasonably segregable from the remainder of the records, the records shall be disclosed by ONDCP with the necessary deletions. ONDCP shall attach to each such record a written justification for making the deletion or deletions. A single such justification shall suffice for deletions made in a group of similar or related records.

Bob Martinez,

Director.

[FR Doc. 92-30317 Filed 12-15-92; 8:45 am]

BILLING CODE 3180-02-M

DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice 1735]

Bureau of Consular Affairs; Passports

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the regulations at 22 CFR part 51, subpart B in two different respects. First, it generally narrows the categories of persons who are eligible to apply for passports without personal appearance by raising the generally applicable age limit to 18. The amendment is necessary because we have found that the generally applicable age limit of 16 introduced in 1986 has caused some inefficiencies and confusion in service to the public. Second, however, the rule will in certain circumstances permit use of mail-in procedures for persons under the age of 18 residing abroad.

EFFECTIVE DATE: December 16, 1992.

FOR FURTHER INFORMATION CONTACT: William B. Wharton, Director, Office of Citizenship Appeals and Legal Assistance, Passport Office, 1425 K Street, NW., room 300, Washington, DC 20522-1705; telephone (202) 326-6172.

SUPPLEMENTARY INFORMATION: Until 1986, subsections (c) and (d) of 22 CFR 51.21 specified that personal appearance was not required when applying for a renewal of a U.S. passport if:

(i) The most recently issued passport was issued when the citizen was 18 years of age or older;

(ii) The renewal application was made within 8 years from the date on which the previous passport was issued; and,

(iii) The citizen presented that passport with his or her application for a new passport.

Present regulations allow a U.S. citizen to apply for a renewal of a U.S. passport without appearing in person before a person authorized to accept such applications if: (i) The most recent passport was issued when the citizen was 16 years of age or older; (ii) the application is made within 12 years from the date on which the previous passport was issued; and, (iii) the citizen presents that passport with his or her application for a new passport. The revised regulations partially reinstate the pre-1986 rules, allowing a person who has previously been issued a passport to use the mail-in procedure within 12 years of the date on which the passport was issued if the expired passport was issued when the applicant was 18 years of age or older.

This change is being made because: (i) The Department did not experience significant use of the mail-in procedures by individuals whose previous passports were issued when they were between 16 and 18 years of age; (ii) the Department did experience an increase in inefficiency and administrative costs when processing the forms, in that use of the form by those between the ages of 16 and 18 introduced additional decisions about fees and the passport validity period (which is longer for persons over 18 than for persons 16-18) resulting in increased use of personnel resources; and, (iii) because age 18 is the age of majority, the Department believes that use of 18 is more sensible. Under limited conditions, an exception to the requirement of personal appearance by minors is provided for an application made abroad by a person under 18 years of age. The regulation codifies the Secretary's authority to select certain foreign service posts to waive entirely the requirement for personal appearance of minors on a carefully controlled individual basis. This waiver is deemed necessary to enhance consular efficiency at those posts.

This rule was published as a Notice of Proposed Rulemaking in the **Federal Register** on August 28, 1992 (57 FR 39159). No comments were received during the 30-day comment period.

List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 22 CFR part 51 is amended as follows:

1. The authority citation for part 51 continues to read as follows:

Authority: 22 U.S.C. 211a, as amended, 22 U.S.C. 2658, 3926; sec. 122(d)(3), Public Law 98-164, 97 Stat. 1017; E.O. 12295, 36 FR 10603; 3 CFR 1966-70 Comp. p. 507; Public Law 100-690; sec. 129, Public Law 102-136, 105 Stat. 661; sec. 503, Public Law 102-140, 105 Stat. 820, unless otherwise noted.

2. Section 51.21 is amended by revising paragraphs (c) introductory text, (c)(1), (d)(1) and paragraphs (d)(4) is added to read as follows:

§ 51.21 Execution of passport application.

* * * * *

(c) Persons in the United States who have previously been issued a full validity passport. A person in the United States who has been issued a passport in his or her own name may obtain a new passport by filling out and mailing a specially prescribed application together with his or her previous passport, two recent photographs, and the established fee to the nearest U.S. passport agency, provided:

(1) The most recently issued previous passport was issued when the applicant was 18 years of age or older.

* * * * *

(d) * * *

(1) The most recently issued passport was issued when the applicant was 18 years of age or older.

* * * * *

(4) In a Consular district specifically authorized by the Secretary to waive personal appearance of minors in accordance with this subsection, a U.S. consular officer may waive the age requirement established for use of the mail application, where the consular officer determines that:

(i) The minor and, if applicable, the U.S. citizen parent(s) or legal guardian are registered in that consular district;

(ii) The minor is not subject to the provisions of subsection 51.27 (c) or (d);

(iii) The waiver of the age requirement is otherwise in the interest of consular efficiency; and,

(iv) The waiver will not otherwise compromise the integrity of the passport application process.

Dated: November 20, 1992.

James L. Ward,

Acting Assistant Secretary, Bureau of Consular Affairs.

[FR Doc. 92-30459 Filed 12-16-92; 8:45 am]

BILLING CODE 4710-06-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2640 and 2642

RIN 1212-AA39

Allocating Unfunded Vested Benefits Following the Merger of Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Allocating Unfunded Vested Benefits (29 CFR part 2642). (The amendment also makes changes to 29 CFR § 2640.4, which sets forth definitions for purposes of part 2642.) The amendment adds to the regulation a new subpart D containing rules for determining the unfunded vested benefits allocable to an employer that withdraws from a multiemployer pension plan after the plan has merged with another multiemployer pension plan. The Employee Retirement Income Security Act of 1974 provides for the PBGC to prescribe rules governing this allocation. This amendment will provide guidance to multiemployer plans on how to allocate unfunded vested benefits following the merger of multiemployer plans

EFFECTIVE DATE: January 15, 1993.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: An employer that withdraws from a multiemployer pension plan is generally liable for a portion of the plan's unfunded vested benefits. The first step in calculating this liability is to determine the employer's allocable share of the plan's unfunded vested benefits in accordance with section 4211 of the Employee Retirement Income Security Act of 1974 ("ERISA"). Section 4211 provides four alternative allocation methods for computing this share: the presumptive method, the modified presumptive method, the rolling-5 method, and the direct attribution method. Because these methods may be difficult to apply to employer withdrawals following a merger of multiemployer plans, ERISA section 4211(f) provides that—

> [I]n the case of a withdrawal following a merger of multiemployer plans, [the allocation rules of section 4211] shall be applied in accordance with regulations prescribed by the [Pension Benefit Guaranty Corporation ("PBGC")]; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination [of the amount of unfunded vested benefits allocable to the employer] shall be made as if each of the multiemployer plans had remained [a] separate plan[ ].

Thus, the PBGC is to prescribe rules for the allocation of unfunded vested benefits to employers that withdraw after a merger of multiemployer plans.

This final regulation, which was published in proposed form on November 9, 1987 (52 FR 43082), prescribes adjustments to the section 4211 allocation rules that the PBGC believes will give a merged plan adequate flexibility to adopt an allocation method that is well-suited to the plan's particular circumstances, while also ensuring that the method adopted will be consistent with the underlying purposes of and the aggregate results achieved by the statutory allocation methods.

Two public comments were received on the proposed regulation.

One commenter was concerned that the lack of an effective date in the proposed regulation indicated that the regulation could be construed to apply retroactively, and contended that such retroactive application could create serious problems for multiemployer plans that had previously merged and could conflict with section 405 of the Multiemployer Pension Plan Amendments Act of 1980 ("MPPAA"), which provides as follows:

> (a) Except as otherwise provided in the amendments made by [MPPAA] [including section 4211(f) of ERISA] and in subsection (b), if the way in which any such amendment will apply to a particular action during the period before such regulations take effect shall be treated as complying with such regulations for such period.
>
> (b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.

The commenter argued that "to comply with section 405, and to avoid any challenges by employers contributing to previously merged multiemployer plans, the final regulations should clearly state that reasonable actions taken by multiemployer plans in allocating unfunded vested benefits to employers that withdraw after a multiemployer plan merger that occurred prior to the final effective date of the regulations shall be treated as complying with the regulations, and that any requirement regarding plan amendments does not apply prior to that effective date."

The PBGC agrees that section 405 of MPPAA applies to actions taken before the effective date of the regulation, and intended that the regulation be consistent with section 405. The proposed regulation contained no effective date because it was published as a proposal for public comment; it was not an "instruction * * * or temporary rule" within the scope of section 405(b). The effective date of the final regulation is stated above, and reasonable actions based on plan rules allocating unfunded vested benefits to employee that withdraw from a merged plan before that effective date are to be treated as complying with the regulation. Since the provisions of section 405 are clear in this regard, the PBGC considers, it unnecessary to restate them in the regulation.

The PBGC does not agree, however, that MPPAA section 405(a) applies to any "withdraw[al] after a * * * merger that occurred prior to the final effective date of the regulations." Were that true, a plan resulting from a merger that antedated the effective date of the regulation would be forever exempt from compliance with the regulation. Rather, the PBGC considers the regulation applicable to withdrawals occurring on or after its effective date, regardless of when the plan in question was involved in a merger.

The other commenter urged the PBGC not to apply to merged plans a Notice of Interpretation that the PBGC published in the **Federal Register** on December 31, 1986 (51 FR 47342), dealing with the assessment of withdrawal liability by plans with no unfunded vested benefits. That notice of interpretation was withdrawn by the PBGC in a later notice, published in the **Federal Register** on March 22, 1991 (56 FR 12288), rendering this second comment moot.

The only difference (other than the correction of some non-substantive errors) between the proposed regulation and the final regulation hereby promulgated is that subparagraphs (i) and (ii) of § 2642.22(d)(1) have been made consistent with each other by changing the words "an employer against which withdrawal liability has been assessed after the initial plan year," which appeared in § 2642.22(d)(1)(ii) of the proposed regulation, to read "an employer that withdrew after the close of the initial plan year."

Compliance With Rulemaking Guidelines

The PBGC has determined that this amendment is not a "major rule" for purposes of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This determination is based on the fact that this regulation merely provides optional rules for allocating liabilities under merged multiemployer plans; plans are not prevented from adopting allocation methods that were permitted by Part 2642 before this amendment. The regulation neither creates nor imposes new liabilities.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Small multiemployer plans (traditionally viewed as plans with fewer than 100 participants) represent only 6 percent of all multiemployer plans covered by the PBGC (118 out of 2,000) and less than 0.25 percent of all small plans (118 out of 47,650). Further, the number of mergers is not substantial (approximately 25 per year). For these reasons, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

List of Subjects in 29 CFR Parts 2640 and 2642

Employee benefit plans, Pensions, and Pension insurance.

In consideration of the foregoing, subchapter F of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2640—[AMENDED]

1. The authority citation for part 2640 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3) (1988).

2. Section 2640.4 is revised to read as follows:

§ 2640.4 Allocating unfunded vested benefits.

For purposes of part 2642—

Initial plan year means a merged plan's first complete plan year that begins after the establishment of the merged plan.

Initial plan year unfunded vested benefits means the unfunded vested benefits as of the close of the initial plan year, less the value as of the end of the initial plan year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year.

Merged plan means a plan that is the result of the merger of two or more multiemployer plans.

Merger means the combining of two or more multiemployer plans into one multiemployer plan.

Post-1980 fraction means the fraction described in section 4211(c)(2)(C)(ii) or (c)(3)(B) of the Act.

Pre-1980 fraction means the fraction described in section 4211(b)(3)(B) or (c)(2)(B)(ii) of the Act.

Prior plan means the plan in which an employer participated immediately before that plan became a part of the merged plan.

Unfunded vested benefits means an amount by which the value of nonforfeitable benefits under the plan exceeds the value of the assets of the plan.

Withdrawing employer means the employer for whom withdrawal liability is being calculated under section 4201 of the Act.

Withdrawn employer means an employer who, prior to the withdrawing employer, has discontinued contributions to the plan or covered operations under the plan and whose obligation to contribute has not been assumed by a successor employer within the meaning of section 4204 of the Act. A temporary suspension of contributions, including a suspension described in section 4218(2) of the Act, is not considered a discontinuance of contributions.

PART 2642—[AMENDED]

3. The authority citation for part 2642 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3) and 1391(c)(1), (c)(2)(D), (c)(5)(A), (c)(5)(B), (c)(5)(D), and (f) (1988).

4. Section 2642.1 is amended by revising paragraph (a) to read as follows:

§ 2642.1 Purpose and scope.

(a) *Purpose.* Section 4211 of the Act provides four methods for allocating unfunded vested benefits to employers that withdraw from a multiemployer plan: The presumptive method (section 4211(b)); the modified presumptive method (section 4211(c)(2)); the rolling-5 method (section 4211(c)(3)); and the direct attribution method (section 4211(c)(4)). With the minor exceptions covered in § 2642.2, a plan determines the amount of unfunded vested benefits allocable to a withdrawing employer in accordance with the presumptive method, unless the plan is amended to adopt an alternative allocative method. Generally, the PBGC must approve the adoption of an alternative allocation method. On September 25, 1984, 49 FR 37686, the PBGC granted a class approval of all plan amendments adopting one of the statutory alternative allocation methods. Subpart C of this regulation sets forth the criteria and procedures for PBGC approval of nonstatutory alternative allocation methods. Section 4211(c)(5) of the Act also permits certain modifications to the statutory allocation methods. The PBGC is to prescribe these modifications in a regulation, and plans may adopt them without PBGC approval. Subpart B of this regulation contains the permissible modifications to the statutory methods. Plans may adopt other modifications subject to PBGC approval under subpart C. Finally, under section 4211(f) of the Act, the PBGC is required to prescribe rules governing the application of the statutory allocation methods or modified methods by plans following merger of multiemployer plans. Subpart D sets forth alternative allocative methods to be used by merged plans. In addition, such plans may adopt any of the allocation methods or modifications described under subparts B and C in accordance with the rules under subparts B and C.

* * * * *

5. Part 2642 is amended by adding a new subpart D to read as follows:

Subpart D—Allocation Methods for Merged Multiemployer Plans

Subpart D—Allocation Methods for Merged Multiemployer Plans

§ 2642.21 Allocation of unfunded vested benefits following the merger of plans.

(a) *General Rule.* Except as provided in paragraphs (b) through (d) of this section, when two or more multiemployer plans merge, the merged plan shall adopt one of the statutory allocation methods, in accordance with subpart B of this part, or one of the allocation methods prescribed in §§ 2642.22 through 2642.25, and the method adopted shall apply to all employer withdrawals occurring after the initial plan year. Alternatively, a merged plan may adopt its own allocation method in accordance with Subpart C of this part. If a merged plan fails to adopt an allocation method pursuant to this subpart or subpart B or C, it shall use the presumptive allocation method prescribed in § 2642.22. In addition, a merged plan may adopt any of the modifications prescribed in § 2642.26 or in subpart B of this part.

(b) *Construction plans.* Except as provided in the next sentence, a merged plan that primarily covers employees in the building and construction industry shall use the presumptive allocation method prescribed in § 2642.22. However, the plan may, with respect to employers that are not construction industry employers within the meaning of section 4203(b)(1)(A) of the Act, adopt, by amendment, one of the alternative methods prescribed in §§ 2642.23 through 2642.25 or any other allocation method. Any such amendment shall be adopted in accordance with subpart C of this part. A construction plan may, without the PBGC's approval, adopt by amendment any of the modifications set forth in § 2642.26 or any of the modifications to the statutory presumptive method set forth in § 2642.6.

(c) *Section 404(c) plans.* A merged plan that is a continuation of a plan described in section 404(c) of the Internal Revenue Code (a plan established before January 1, 1954, as a result of an agreement between employee representatives and the United States during a period of government operation, under seizure powers, of a major part of the productive facilities of an industry) shall use the rolling-5 allocation method prescribed in § 2642.24, unless the plan, by amendment, adopts an alternative method. The plan may adopt one of the statutory allocation methods or one of the allocation methods set forth in §§ 2642.22 through 2642.25 without PBGC approval; adoption of any other allocation method is subject to PBGC approval under subpart B of this plan. The plan may, without the PBGC's approval, adopt by amendment any of the modifications set forth in § 2642.26 or in subpart B of this part.

(d) *Withdrawals before the end of the initial plan year.* For employer withdrawals after the effective date of a merger and prior to the end of the initial plan year, the amount of unfunded vested benefits allocable to a withdrawing employer shall be determined in accordance with § 2642.27.

§ 2642.22 Presumptive method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum (but not less than zero) of—

(1) The employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits, as determined under paragraph (b) of this section;

(2) The employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after the initial plan year, as determined under paragraph (c) of this section; and

(3) The employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (d) of this section.

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities (determined under paragraph (b)(1) of this section) and the employer's share of the adjusted initial plan year unfunded vested benefits (determined under paragraph (b)(2) of this section), with such sum reduced by five percent of the original amount for each plan year subsequent to the initial year.

(1) *Share of prior plan liabilities.* An employer's share of its prior plan's liabilities is the amount of unfunded vested benefits that would have been allocable to the employer if it had withdrawn on the first day of the initial plan year, determined as if each plan had remained a separate plan.

(2) *Share of adjusted initial plan year unfunded vested benefits.* An employer's share of the adjusted initial plan year unfunded vested benefits equals the plan's initial plan year unfunded vested benefits, less the amount that would be determined under paragraph (b)(1) of this section for each employer that had not withdrawn as of the end of the initial plan year, multiplied by a fraction—

(i) The numerator of which is the amount determined under paragraph (b)(1) of this section; and

(ii) The denominator of which is the sum of the amounts that would be determined under paragraph (b)(1) of this section for each employer that had not withdrawn as of the end of the initial plan year.

(c) *Share of annual changes.* An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested for the plan years ending after the end of the initial plan year is the sum of the employer's proportional shares (determined under paragraph (c)(2) of this section) of the unamortized amount of the change in unfunded vested benefits (determined under paragraph (c)(1) of this section) for each plan year in which the employer has an obligation to contribute under the plan ending after the initial plan year and before the plan year in which the employer withdraws.

(1) *Change in plan's unfunded vested benefits.* The change in a plan's unfunded vested benefits for a plan year is the amount by which the unfunded vested benefits at the end of a plan year, less the value as of the end of such year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year, exceed the sum of the unamortized amount of the initial plan year unfunded vested benefits (determined under paragraph (c)(1)(i) of this section) and the unamortized amounts of the change in unfunded vested benefits for each plan year ending after the initial plan year and preceding the plan year for which the change is determined (determined under paragraph (c)(1)(ii) of this section).

(i) *Unamortized amount of initial plan year unfunded vested benefits.* The unamortized amount of the initial plan year unfunded vested benefits is the amount of those benefits reduced by five percent of the original amount for each succeeding plan year.

(ii) *Unamortized amount of the change.* The unamortized amount of the

change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by five percent of such change for each succeeding plan year.

(2) *Employer's proportional share.* An employer's proportional share of the amount determined under paragraph (c)(1) of this section is computed by multiplying that amount by a fraction—

(i) The numerator of which is the total amount required to be contributed under the plan (or under the employer's prior plan) by the employer for the plan year in which the change arose and the four preceding full plan years; and

(ii) The denominator of which is the total amount contributed under the plan (or under employer's prior plan) for the plan year in which the change arose and the four preceding full plan years by all employers that had an obligation to contribute under the plan for the plan year in which such change arose, reduced by any amount contributed by an employer that withdrew from the plan in the year in which the change arose.

(d) *Share of reallocated amounts.* An employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits, if any, is the sum of the employer's proportional shares (determined under paragraph (d)(2) of this section) of the unamortized amount of the reallocated unfunded vested benefits (determined under paragraph (d)(1) of this section) for each plan year ending before the plan year in which the employer withdrew from the plan.

(1) *Unamortized amount of reallocated unfunded vested benefits.* The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the sum of the amounts described in paragraphs (d)(1)(i), (d)(1)(ii), and (d)(1)(iii) of this section for the plan year, reduced by five percent of such sum for each succeeding plan year.

(i) *Uncollectible amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under Title 11, United States Code, or similar proceedings, with respect to an employer that withdrew after the close of the initial plan year.

(ii) *Relief amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year will not be assessed as a result of the operation of sections 4209, 4219(c)(1)(B), or 4225 of the Act with respect to an employer that withdrew after the close of the initial plan year.

(iii) *Other amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year to be uncollectible or unassessble for other reasons under standards not inconsistent with regulations prescribed by the PBGC.

(2) *Employer's proportional share.* An employer's proportional share of the amount of the reallocated unfunded vested benefits with respect to a plan year is computed by multiplying the unamortized amount of the reallocated unfunded vested benefits (as of the end of the year preceding the plan year in which the employer withdraws) by the allocation fraction described in paragraph (c)(2) of this section for the same plan year.

§ 2642.23 Modified presumptive method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum of the employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits (determined under paragraph (b) of this section) and the employer's proportional share of the unamortized amount of the unfunded vested benefits arising after the initial plan year (determined under paragraph (c) of this section).

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under § 2642.22(b)(1), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under § 2642.22(b)(2) with such sum reduced as if it were being fully amortized in level annual installments over fifteen years beginning with the first plan year after the initial plan year.

(c) *Share of unfunded vested benefits arising after the initial plan year.* An employer's proportional share of the amount of the plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share (determined under paragraph (c)(2) of this section) of the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, reduced by the amount of the plan's unfunded vested benefits as of the close of the initial plan year (determined under paragraph (c)(1) of this section).

(1) *Amount of unfunded vested benefits.* The plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws shall be reduced by the sum of—

(i) The value as of that date of all outstanding claims for withdrawal liability that can reasonably be expected to be collected, with respect to employers that withdrew before that plan year; and

(ii) The sum of the amounts that would be allocable under paragraph (b) of this section to all employers that have an obligation to contribute in the plan year preceding the plan year in which the employer withdraws and that also had an obligation to contribute in the first plan year ending after the initial plan year.

(2) *Employer's proportional share.* An employer's proportional share of the amount determined under paragraph (c)(1) of this section is computed by multiplying that amount by a fraction—

(i) The numerator of which is the total amount required to be contributed under the plan (or under the employer's prior plan) by the employer for the last five full plan years ending before the date on which the employer withdraws; and

(ii) The denominator of which is the total amount contributed under the plan (or under each employer's prior plan) by all employers for the last five full plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods that were collected in those plan years, and decreased by any amount contributed by an employer that withdrew from the plan (or prior plan) during those plan years.

§ 2642.24 Rolling-5 method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum of the employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits (determined under paragraph (b) of this section) and the employer's proportional share of the unamortized amount of the unfunded vested benefits arising after the initial plan year (determined under paragraph (c) of this section).

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of

the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under § 2642.22(b)(1), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under § 2642.22(b)(2), with such sum reduced as if it were being fully amortized in level annual installments over five years beginning with the first plan year after the initial plan year.

(c) *Share of unfunded vested benefits arising after the initial plan year.* An employer's proportional share of the amount of the plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share determined under § 2642.23(c).

§ 2642.25 Direct attribution method for withdrawals after the initial plan year.

The allocation method under this section is the allocation method described in section 4211(c)(4) of the Act.

§ 2642.26 Modifications to the determination of initial liabilities, the amortization of initial liabilities, and the allocation fraction.

(a) *General rule.* A plan using any of the allocation methods described in §§ 2642.22 through 2642.24 may, by plan amendment and without PBGC approval, adopt any of the modifications described in this section.

(b) *Restarting initial liabilities.* A plan may be amended to allocate the initial plan year unfunded vested benefits under § 2642.22(b), § 2642.23(b), or § 2642.24(b) without separately allocating to employers the liabilities attributable to their participation under their prior plans. An amendment under this paragraph must include an allocation fraction under paragraph (d) of this section for determining the employer's proportional share of the total unfunded benefits as of the close of the initial plan year.

(c) *Amortizing initial liabilities.* A plan may by amendment modify the amortization of initial liabilities in either of the following ways:

(1) If two or more plans that use the presumptive allocation method of section 4211(b) of the Act merge, the merged plan may adjust the amortization of initial liabilities under § 2642.22(b) to amortize those unfunded vested benefits over the remaining length of the prior plans' amortization schedules.

(2) A plan that has adopted the allocation method under § 2642.23 or § 2642.24 may adjust the amortization of initial liabilities under § 2642.23(b) or § 2642.24(b) to amortize those unfunded vested benefits in level annual installments over any period of at least five and not more than fifteen years.

(d) *Changing the allocation fraction.* A plan may by amendment replace the allocation fraction under § 2642.22(b), § 2642.23(b), or § 2642.24(b) with any of the following contribution-based fractions—

(1) A fraction, the numerator of which is the total amount required to be contributed under the merged and prior plans by the withdrawing employer in the 60-month period ending on the last day of the initial plan year, and the denominator of which is the sum for that period of the contributions made by all employers that had not withdrawn as of the end of the initial plan year;

(2) A fraction, the numerator of which is the total amount required to be contributed by the withdrawing employer for the initial plan year and the four preceding full plan years of its prior plan, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year; or

(3) A fraction, the numerator of which is the total amount required to be contributed to the plan by the withdrawing employer since the effective date of the merger, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year.

§ 2642.27 Allocating unfunded vested benefits for withdrawals before the end of the initial plan year.

If an employer withdraws after the effective date of a merger and before the end of the initial plan year, the amount of unfunded vested benefits allocable to the employer shall be determined as if each plan had remained a separate plan. In making this determination, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall compute the employer's allocable share of the plan's unfunded vested benefits as if the day before the effective date of the merger were the end of the last plan year prior to the withdrawal.

Issued at Washington, D.C., on this 9th day of December, 1992.

Lynn Martin,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving, and authorizing its chairman to issue, this regulation.

Carol Connor Flowe,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 92–30344 Filed 12–15–92; 8:45 am]

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29 CFR Parts 2640 and 2646

RIN 1212–AA22

Reduction or Waiver of Partial Withdrawal Liability

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation establishes rules for reducing or waiving the liability of an employer that has partially withdrawn from a multiemployer pension plan and subsequently increases its contributions base units or reenters the plan under the bargaining agreement or for the facility that gave rise to the partial withdrawal liability. The Employee Retirement Income Security Act of 1974, as amended, directs the PBGC to issue some of these rules and authorizes it to issue the others. The regulation is needed to provide relief to employers that incur partial withdrawal liability and subsequently resume on a covered basis some or all of the work that gave rise to the partial withdrawal. The regulation requires plans to waive or reduce the employer's obligation to make withdrawal liability payments under certain circumstances and provides guidance for implementing reductions in payments required by ERISA. It also provides procedures under which plans may adopt additional rules for the reduction or waiver of partial withdrawal liability, subject to PBGC approval.

EFFECTIVE DATE: January 15, 1993.

FOR FURTHER INFORMATION CONTACT: Deborah J Bisco, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW.,Washington, DC 20006; (202) 778–8824 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this regulation has been reviewed and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 under control number 1212–0039. The collection of information, which is set

forth in § 2646.8, applies only to multiemployer plans that wish to adopt their own rules for the waiver or reduction of partial withdrawal liability. Plans are not required to adopt such rules. The estimated annual burden associated with this collection of information is five hours per respondent, with an estimated number of respondents of ten per year. This results in an estimated annual burden of 50 hours. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden should be directed to the Pension Benefit Guaranty Corporation, Office of the General Counsel (Code 22500), 2020 K Street, NW., Washington, DC 20006; and to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, room 3208 New Executive Office Building, Washington, DC 20503.

Background

Section 4205(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA" or "the Act"), sets forth the circumstances under which an employer is deemed to have partially withdrawn from a multiemployer pension plan. A partial withdrawal occurs on the last day of a plan year in which: (1) There is a 70-percent contribution decline, or (2) there is a partial cessation of the employer's contribution obligation. Section 4205(b)(1) sets forth the statutory formula defining a 70-percent contribution decline. Section 4205(b)(2) defines a partial cessation of the contribution obligation as: (1) The permanent cessation of the employer's contribution obligation to the plan under one or more but fewer than all of the collective bargaining agreements pursuant to which the employer contributes to the plan, with the employer either continuing to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transferring such work to another location; or (2) the permanent cessation of the employer's contribution obligation with respect to work performed at one or more but fewer than all of the employer's facilities, with the employer continuing to perform work at the facility of the type for which the contribution obligation ceased.

The amount of an employer's liability for a partial withdrawal is calculated under section 4206(a). Section 4206(b) provides that the liability for a withdrawal subsequent to a partial withdrawal shall be reduced to reflect the liability assessed for the prior withdrawal. Section 4208 sets forth the general requirements for the reduction or waiver of partial withdrawal liability and establishes abatement rules for partial withdrawals resulting from 70% contribution declines. Section 4208(e) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to prescribe regulations providing for the reduction or elimination of partial withdrawal liability under other conditions. Section 4208(e)(3) also requires that the PBGC establish a procedure under which plans may adopt their own rules for abatement of partial withdrawal liability under other conditions, subject to PBGC approval of such rules.

On June 5, 1987, the PBGC published a proposed regulation on Reduction or Waiver of Partial Withdrawal Liability (52 FR 21319). Among other things, the regulation proposed mandatory rules for the reduction or elimination of an employer's liability arising from a bargaining unit or facility "takeout" partial withdrawal. The regulation also proposed procedures under which plans could request PBGC approval of plan rules providing for the reduction or elimination of partial withdrawal liability and standards for the PBGC's decision on such requests. Three written comments were received on the proposal. These comments have been reviewed by the PBGC and changes have been made in the regulation based on some of the comments. The PBGC has also corrected an error in the proposed regulation and has made several conforming changes necessitated by these revisions in the final regulation. Finally, the PBGC has also made a number of editorial changes for clarification or to eliminate redundancy.

Comments on the Proposed Regulation

One commenter expressed concern that the 60-day time limit contained in § 2646.2(b) may be too short. This provision requires that a plan sponsor determine within 60 days after receipt of an application from an eligible employer whether the employer qualifies for abatement. According to the commenter, "many plans reserve these types of determinations for their Boards of Trustees* * *[and] the next board meeting after the plan receives an application for abatement may not be within the sixty-day limit." The commenter also noted that the plan may need more time to collect data necessary to make the determination, to "communicate with its actuaries and process the required data," and to obtain additional data from the employer if the application was incomplete. For those reasons, the commenter recommended that the PBGC revise the regulation to provide the same requirement as in the regulation on reduction or waiver of complete withdrawal liability (29 CFR part 2647), *i.e.*, that the plan sponsor's determination be made "as soon as practicable" after an eligible employer applies for abatement (See § 2647.2(b)).

It is the PBGC's view that the 60-day period should provide plans with sufficient time to make the determination. The 60-day period begins when the employer submits a complete application to the plan. Under § 2646.2(a), this includes "the basis for reduction or waiver" of liability. Thus, if the plan has to request additional information from the employer in order to determine the basis for the abatement, the 60-day period would not commence until the additional information is received. It is likely that in most instances employers will not apply until after the close of the plan year in which they satisfy the conditions for abatement. Thus, the data necessary for the determination should be readily available. With respect to the problems cited by the commenter as to the feasibility of a plan's board of trustees making the abatement determination within the 60-day period, the PBGC does not find these problems insurmountable. The abatement determination is the type of decision that could normally be delegated by the board of trustees to, for example, a sub-group of the board that meets more frequently than the full board.

One commenter urged that the regulation provide that a plan may offset against any refund for overpayments required by § 2646.2(c)(4) any amounts owed by the employer, for whatever reason, to the plan. The PBGC believes that it is important not to create disincentives for employers to pay partial withdrawal liability during the period in which they may satisfy the criteria for abatement of that liability. Applying overpayments that result from an employer's qualifying for abatement to amounts owed by the employer to the plan for other purposes could be such a disincentive, because the employer would know that if it did qualify, it would not receive a refund of any resultant overpayments of its partial withdrawal liability. Moreover, plans have effective statutory tools to enforce payment by employers of other obligations. Title I of ERISA gives plans the authority to sue for delinquent contributions, and Title IV gives plans the authority to sue to enforce the obligation to pay withdrawal liability. Therefore, the PBGC does not believe that the refund rule in § 2646.2(c)(4) will create hardships for plans.

One commenter objected to the requirements of § 2646.3(b) of the proposed rule (redesignated § 2646.3(b)(1) in the final rule), regarding the facility/bargaining unit take-out rule, as being inconsistent with the statute and so stringent as to operate as a deterrent to reentry. Proposed § 2646.3(b) provided for the waiver of partial withdrawal liability for a facility or collective bargaining agreement partial withdrawal if the employer, in each of two consecutive years, satisfies the following three conditions:

(1) The employer resumes contributions for the same facility or agreement that gave rise to the partial withdrawal;

(2) The contribution base units for the reentered facility or agreement exceed 30 percent of the contribution base units with respect to the facility or agreement for the high base year; and

(3) The total contribution base units of the employer equal or exceed 90 percent of the total contribution base units of the employer in its high base year.

The commenter asserted that conditioning abatement on the employer's total contribution base units is inconsistent with section 4208(e)(2), which provides that:

> reduction of withdrawal liability shall be provided only with respect to subsequent changes in the employer's contributions for the same operations, or under the same collective bargaining agreement, that gave rise to the partial withdrawal, and changes in the employer's contribution base units with respect to other facilities or other collective bargaining agreements shall not be taken into account.

In the view of the commenter, this provision requires that the abatement test focus exclusively on the reentered operations and not on the employer's overall units. As to the potential deterrent effect, the commenter noted that if an employer has experienced large declines in contribution base units prior to the partial withdrawal, the 90 percent requirement could disqualify the employer for abatement even if the employer were to restore fully the operations that gave rise to the partial withdrawal.

The PBGC disagrees with the commenter's interpretation of section 4208(e)(2). It is the PBGC's view that section 4208(e)(2) mandates that an employer not receive the benefit of abatement solely as a result of increases in other operations; it does not prohibit an abatement rule that includes an employer's contribution base units at other operations as one of the criteria. Nevertheless, the PBGC does agree with the commenter that the 90 percent test in proposed § 2646.3(b) may discourage reentry in some cases and may be unduly stringent in situations in which the employer is restoring work at the full pre-withdrawal level at the facility or under the agreement that gave rise to the partial withdrawal.

In order to address these concerns, the PBGC has decided to promulgate an alternative rule under § 2646.3(b). This abatement test requires restoration of a greater amount of work at the facility, or under the bargaining agreement that gave rise to the partial withdrawal, but also permits restored work in excess of the threshold amount to offset a diminution of covered work at the employer's other facilities or under its other bargaining agreements. In addition, the pre-withdrawal period against which the employer's contribution base units at or under its other facilities or bargaining agreements are measured is the year preceding the partial withdrawal year. Thus, this new rule enables an employer to qualify for abatement if it restores to the plan substantially all of the work that gave rise to its partial withdrawal, even if the employer had been experiencing a general decline in its covered work during the several years prior to the withdrawal.

One comment was received on the request in the preamble to the proposed regulation for comments on adding an exception to § 2646.3(c)(1) "that would allow plans to adopt more stringent standards [for the reduction of the annual payment amount], when the proposed requirement would necessitate administrative costs that exceed the reduction in the employer's annual withdrawal liability payment." The sole comment on this issue endorsed the need for such an exception, without providing any criteria or suggestions as to how such an exception might be framed. Because the PBGC has no basis for setting objective standards to implement such an exception, none is included in the final rule.

As stated in the proposed regulation (§ 2646.3(d)), the description of the base period used for abatement determinations with respect to withdrawal liability resulting from 70-percent contribution declines was incorrect. The correct base period is the five plans years immediately preceding the beginning of the 3-year testing period under section 4205(b)(1)(B)(i) of the Act, not preceding the year of the withdrawal. Section 2646.3(d) has been revised accordingly.

One commenter objected to the rule in § 2646.4(a) that a bond/escrow may only be provided for withdrawal liability payments falling due after the first year in which an employer meets the abatement requirements. According to the commenter, section 4208(a)(2) of ERISA does not "require a one-year restoration [of the withdrawn work], but permits bonding in lieu of payments 'for any plan year' in which the requirements" for abatement are met.

ERISA section 4208(a)(2)(A) provides that:

> For any plan year for which the number of contribution base units with respect to which an employer who has partially withdrawn under section 4205(a)(1) has an obligation to contribute under the plan equals or exceeds the number of units for the highest year determined under [section 4208(a)(1)] without regard to "90 per cent of", the employer may furnish (in lieu of the payment of the partial withdrawal liability determined under section 4206) a bond to the plan in the amount determined by the plan sponsor (not exceeding 50 percent of the annual payment otherwise required).

While a literal reading of this provision supports the commenter's contention, as a practical matter, one cannot determine whether this standard has, in fact, been met until the end of a plan year. Therefore, the one-year restoration period required under § 2646.4(a) is a practical necessity.

The final comment related to proposed § 2646.8, which authorized plans to adopt by plan amendment, subject to PBGC approval, rules waiving or reducing partial withdrawal liability under other conditions. The PBGC's approval of such an amendment is based on its determination that adoption of the amendment is consistent with the purposes of the Act (ERISA section 4208(e)(3)). Proposed § 2646.8(f) provided that plan rules are consistent with the purposes of the Act only if, *inter alia*, "[t]he rules base waiver or reduction of the employer's partial withdrawal liability, in whole or in part, on increases in the employer's contribution base units or in the plan's overall contribution base units in years after the years following the partial withdrawal year * * *." The commenter objected to these standards as being overly restrictive in defining what is consistent with the purposes of the Act. The commenter recommended that the standards be broadened to allow a plan to base reduction or waiver of partial withdrawal liability on such factors as the financial viability of the plan in the partial withdrawal year and declines in the plan's unfunded vested benefits.

The PBGC agrees that the proposed standards may be overly restrictive; that there may be other factors on which to condition abatement that would be consistent with the purposes of the Act. However, the PBGC believes that the

commenter's proposed standards are inappropriate because they ignore an essential element of an abatement rule, *i.e.*, that abatement of withdrawal liability be predicated on events occurring or conditions existing after the withdrawal. A rule that would permit a plan to waive partial withdrawal liability if the plan is well funded as of the partial withdrawal year is really a rule amending the rules for calculating partial withdrawal liability under ERISA section 4206. As such, the rule is beyond the authority of a plan sponsor to adopt or the PBGC to approve. The commenter's recommended revision of the regulation suggests that this basic issue was not adequately addressed in the proposed regulation or its preamble. In order to clarify the prerequisites of an abatement rule, a sentence has been added to § 2646.8(a) specifying that rules adopted under § 2646.8 shall be based on events or factors existing subsequent to the partial withdrawal year.

Proposed § 2646.8(f) set forth very limited criteria for determining whether abatement rules adopted by a plan are acceptable. Therefore, § 2646.8(f) has been revised to provide less restrictive standards for determining whether plan abatement rules are consistent with the purposes of the Act. In its revised form, § 2646.8(f) provides that a plan amendment adopting abatement rules is not consistent with the purposes of the Act unless the PBGC determines that the amendment is not adverse to the interests of plan participants and beneficiaries in the aggregate and would not increase significantly the PBGC's risk of loss with respect to the plan.

Finally, the PBGC received a request for clarification of the following statement relating to the calculation of partial withdrawal liability in the preamble to the proposed regulation:

> The allocable unfunded vested benefits are determined as of the date of the partial withdrawal, or, in the case of a 70-percent decline, as of the last day of the first plan year in the 3-year testing period. (52 FR 21320)

This statement can be interpreted as requiring that the computation of partial withdrawal liability be based on the employer's allocable share of the plan's unfunded vested benefits on the date of the partial withdrawal (or, in the case of a 70-percent decline partial withdrawal, on the last day of the first plan year in the 3-year testing period). This is contrary to the statute and is not what was intended. The intent was to paraphrase ERISA section 4206(a), which provides that the unfunded vested benefits allocable to a withdrawn employer are determined as if the employer had completely withdrawn on the date of the partial withdrawal, or, in the case of a 70-percent contribution decline, on the last day of the first year in the 3-year testing period. Thus, the starting point for the calculation of partial withdrawal liability is the plan's unfunded vested benefits as of the last day of the plan year preceding either the date of the partial withdrawal, or the first year of the 3-year testing period, as applicable.

Compliance with Rulemaking Guidelines

The PBGC has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The regulation affects only multiemployer plans covered by the PBGC. Defining "small plans" as those with under 100 participants, they represent less than 14 percent of all multiemployer plans covered by the PBGC (346 out of 2500). Approximately 500,000 employers contribute to multiemployer plans, most of them small employers (under 100 employees). The PBGC estimates that fewer than 10,000 (2 percent) of these employers will be required to pay partial withdrawal liability in any year, and an even smaller percentage will subsequently increase their participation under a plan and thereby become subject to these rules. Therefore, the PBGC waives compliance with sections 603 and 604 of the Regulatory Flexibility Act.

List of Subjects in 29 CFR Parts 2640 and 2646

Employee benefit plans, Pensions, and Reporting requirements.

In consideration of the foregoing, the PBGC hereby amends subchapter F of chapter XXVI, title 29, Code of Federal Regulations as follows:

PART 2640—DEFINITIONS

1. The authority for part 2640 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

2. Part 2640 is amended by revising § 2640.6 to read as follows:

§ 2640.6 Reduction or waiver of partial and complete withdrawal liability.

For purposes of parts 2646 and 2647—

Complete withdrawal means a complete withdrawal as described in section 4203 of the Act.

Eligible employer means the employer, as defined in section 4001(b) of the Act, as it existed on the date of its initial partial or complete withdrawal, as applicable. An eligible employer shall continue to be an eligible employer notwithstanding the occurrence of any of the following events:

(1) A restoration involving a mere change in identity, form or place of organization, however effected;

(2) A reorganization involving a liquidation into a parent corporation;

(3) A merger, consolidation or division solely between (or among) trades or businesses (whether or not incorporated) of the employer; or

(4) An acquisition by or of, or a merger or combination with another trade or business.

Multiemployer Act means the Multiemployer Pension Plan Amendments Act of 1980, Public Law 96–364, 94 Stat. 1208 (1980).

Partial withdrawal means a partial withdrawal as described in section 4205 of the Act.

Partial withdrawal year means the third year of the 3-year testing period in the case of a partial withdrawal caused by a 70-percent contribution decline, or the year of the partial cessation in the case of a partial withdrawal caused by a partial cessation of the employer's contribution obligation.

Period of withdrawal means the plan year in which the employer completely withdrew from the plan, the plan year in which the employer reentered the plan and all intervening plan years.

3. A new part 2646 is added to read as follows:

PART 2646—REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Sec.

Sec.
2646.6 Adjustment of withdrawal liability for subsequent withdrawals.
2646.7 Multiple partial withdrawals in one plan year.
2646.8 Plan adoption of additional abatement conditions.

Authority: 29 U.S.C. 1302(b)(3) and 1388 (c) and (e).

§ 2646.1 Purpose and scope.

(a) *Purpose.* The purpose of this regulation is to establish rules for reducing or waiving the liability of certain employers that have partially withdrawn from a multiemployer pension plan. Section 4208 of the Act establishes certain conditions under which an employer's partial withdrawal liability will be waived or reduced and authorizes the PBGC to prescribe rules setting forth additional conditions under which partial withdrawal liability will be waived or reduced. That section also directs the PBGC to establish a procedure by which a plan may, subject to PBGC approval, adopt rules for the reduction or elimination of partial withdrawal liability under other conditions. This regulation establishes procedures for eliminating the partial withdrawal liability of an employer that satisfies the conditions of section 4208 (a) or (b) and rules and procedures for reducing or eliminating partial withdrawal liability under other specified conditions. It also provides procedures for plans to apply to the PBGC for approval of plan amendments that reduce or waive partial withdrawal liability under conditions other than those specified in section 4208 and this part.

(b) *Scope.* This part applies to multiemployer pension plans covered under section 4021(a) of the Act and not excluded by section 4021(b) and to employers that have partially withdrawn from such plans after September 25, 1980, and that have not, as of the date on which they satisfy the conditions for reducing or eliminating their partial withdrawal liability, fully satisfied their obligation to pay that partial withdrawal liability. This rule shall not negate reasonable actions taken by plans prior to the effective date of this part under plan rules implementing section 4208 that were validly adopted pursuant to section 405 of the Multiemployer Act.

§ 2646.2 Abatement.

(a) *General.* Whenever an eligible employer that has partially withdrawn from a multiemployer plan satisfies the requirements in § 2646.3 for the reduction or waiver of its partial withdrawal liability, it may apply to the plan for abatement of its partial withdrawal liability. Applications shall identify the eligible employer, the withdrawn employer (if different), the date of withdrawal, and the basis for reduction or waiver of its withdrawal liability. Upon receiving a complete application for abatement, the plan sponsor shall determine, in accordance with paragraph (b) of this section, whether the employer satisfies the requirements for abatement of its partial withdrawal liability under § 2646.3. If the plan sponsor determines that the employer satisfies the requirements for abatement of its partial withdrawal liability, the provisions of paragraph (c) of this section shall apply. If the plan sponsor determines that the employer does not satisfy the requirements for abatement of its partial withdrawal liability, the provisions of paragraphs (d) and (e) of this section shall apply.

(b) *Determination of abatement.* Within 60 days after an eligible employer that partially withdrew from a multiemployer plan applies for abatement in accordance with paragraph (a) of this section, the plan sponsor shall determine whether the employer satisfies the requirements for abatement of its partial withdrawal liability under § 2646.3 and shall notify the employer in writing of its determination and of the consequences of its determination, as described in paragraphs (c) or (d) and (e) of this section, as appropriate. If a bond or escrow has been provided to the plan under § 2646.4 of this part, the plan sponsor shall send a copy of the notice to the bonding or escrow agent.

(c) *Effects of abatement.* If the plan sponsor determines that the employer satisfies the requirements for abatement of its partial withdrawal liability under § 2646.3, then—

(1) The employer's partial withdrawal liability shall be eliminated or its annual partial withdrawal liability payments shall be reduced in accordance with § 2646.5, as applicable;

(2) The employer's liability for a subsequent withdrawal shall be determined in accordance with § 2646.6;

(3) Any bonds furnished under § 2646.4 shall be cancelled and any amounts held in escrow under § 2646.4 shall be refunded to the employer; and

(4) Any withdrawal liability payments originally due and paid after the end of the plan year in which the conditions for abatement were satisfied, in excess of the amount due under this part after that date shall be credited to the remaining withdrawal liability payments, if any, owed by the employer, beginning with the first payment due after the revised payment schedule is issued pursuant to this paragraph. If the credited amount is greater than the outstanding amount of the employer's partial withdrawal liability, the amount remaining after satisfaction of the liability shall be refunded to the employer. Interest on the credited amount at the rate prescribed in Part 2644 of this subchapter (relating to notice and collection of withdrawal liability) shall be added if the plan sponsor does not issue a revised payment schedule reflecting the credit or make the required refund within 60 days after receipt by the plan sponsor of a complete abatement application. Interest shall accrue from the 61st day.

(d) *Effects of non-abatement.* If the plan sponsor determines that the employer does not satisfy the requirements for abatement of its partial withdrawal liability under § 2646.3, then the employer shall take or cause to be taken the actions set forth in paragraphs (d)(1)–(d)(3). The rules in part 2644 shall apply with respect to all payments required to be made under paragraphs (d)(2) and (d)(3). For this purpose, a payment required under paragraph (d)(2) shall be treated as a withdrawal liability payment due on the 30th day after the date of the plan sponsor's notice under paragraph (b) of this section.

(1) Any bond or escrow furnished under § 2646.4 shall be paid to the plan within 30 days after the date of the plan sponsor's notice under paragraph (b) of this section.

(2) The employer shall pay to the plan within 30 days after the date of the plan sponsor's notice under paragraph (b) of this section, the amount of its withdrawal liability payment or payments, with respect to which the bond or escrow was furnished, in excess of the bond or escrow.

(3) The employer shall resume or continue making its partial withdrawal liability payments as they are due to the plan.

(e) *Review of non-abatement determination.* A plan sponsor's determinations that the employer does not satisfy the requirements for abatement under § 2646.3 and of the amount of reduction determined under § 2646.5 shall be subject to plan review under section 4219(b)(2) of the Act and to arbitration under section 4221 of the Act and part 2641 of this subchapter, within the times prescribed by those provisions. For this purpose, the plan sponsor's notice under paragraph (b) of this section shall be treated as a demand under section 4219(b)(1) of the Act. If the plan sponsor upon review or an arbitrator determines that the employer satisfies the requirements for abatement of its partial withdrawal liability under § 2646.3, the plan sponsor shall

immediately refund the amounts described in paragraph (e)(1) if the liability is waived, or credit and refund the amounts described in paragraph (e)(2) if the annual payment is reduced.

(1) *Refund for waived liability.* If the employer's partial withdrawal liability is waived, the plan sponsor shall refund to the employer the payments made pursuant to paragraphs (d)(1)–(d)(3) of this section (plus interest determined in accordance with § 2644.2(d) of this subchapter as if the payments were overpayments of withdrawal liability).

(2) *Credit for reduced annual payment.* If the employer's annual partial withdrawal liability payment is reduced, the plan sponsor shall credit the payments made pursuant to paragraphs (d)(1)–(d)(3) of this section (plus interest determined in accordance with § 2644.2(d) of this subchapter as if the payments were overpayments of withdrawal liability) to future withdrawal liability payments owed by the employer, beginning with the first payment that is due after the determination, and refund any credit (including interest) remaining after satisfaction of the outstanding amount of the employer's partial withdrawal liability.

§ 2646.3 Conditions for abatement.

(a) *Waiver of liability for a 70-percent contribution decline.* An employer that has incurred a partial withdrawal under section 4205(a)(1) shall have no obligation to make payments with respect to that partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year in which the conditions of either paragraph (a)(1) or (a)(2) are satisfied for each of the two years:

(1) The number of contribution base units with respect to which the employer has an obligation to contribute under the plan for each year is not less than 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute to the plan for the high base year (as defined in paragraph (d) of this section).

(2) The conditions of this paragraph are satisfied if—

(i) The number of contribution base units with respect to which the employer has an obligation to contribute for each year exceeds 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute to the plan for the high base year (as defined in paragraph (d) of this section); and

(ii) The total number of contribution base units with respect to which all employers under the plan have obligations to contribute in each of the two years is not less than 90 percent of the total number of contribution base units for which all employers had obligations to contribute in the partial withdrawal year.

(b) *Waiver of liability for a partial cessation of the employer's contribution obligation.* Except as provided in § 2646.7, an employer that has incurred partial withdrawal liability under section 4205(a)(2) shall have no obligation to make payments with respect to that partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year in which the employer satisfies the conditions under either paragraph (b)(1) or (b)(2) of this section.

(1) *Partial restoration of withdrawn work.* The employer satisfies the conditions under this paragraph if, for each of two consecutive plan years—

(i) The employer makes contributions for the same facility or under the same collective bargaining agreement that gave rise to the partial withdrawal;

(ii) The employer's contribution base units for that facility or under that agreement exceed 30 percent of the contribution base units with respect to which the employer had an obligation to contribute for that facility or under that agreement for the high base year (as defined in paragraph (d) of this section); and

(iii) The total number of contribution base units with respect to which the employer has an obligation to contribute to the plan equals at least 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the high base year (as defined in paragraph (d) of this section).

(2) *Substantial restoration of withdrawn work.* The employer satisfies the conditions under this paragraph if, for each of two consecutive plan years—

(i) The employer makes contributions for the same facility or under the same collective bargaining agreement that gave rise to the partial withdrawal;

(ii) The employer's contribution base units for that facility or under that agreement are not less than 90 percent of the contribution base units with respect to which the employer had an obligation to contribute for that facility or under that agreement for the high base year (as defined in paragraph (d) of this section); and

(iii) The total number of contribution base units with respect to which the employer has an obligation to contribute to the plan equals or exceeds the sum of—

(A) The number of contribution base units with respect to which the employer had an obligation to contribute in the year prior to the partial withdrawal year, determined without regard to the contribution base units for the facility or under the agreement that gave rise to the partial withdrawal; and

(B) 90 percent of the contribution base units with respect to which the employer had an obligation to contribute for that facility or under that agreement in either the year prior to the partial withdrawal year or the high base year (as defined in paragraph (d) of this section), whichever is less.

(c) *Reduction in annual partial withdrawal liability payment*—(1) *Partial withdrawals under section 4205(a)(1).* An employer shall be entitled to a reduction of its annual partial withdrawal liability payment for a plan year if the number of contribution base units with respect to which the employer had an obligation to contribute during the plan year exceeds the greater of—

(i) 110 percent (or such lower number as the plan may, by amendment, adopt) of the number of contribution base units with respect to which the employer had an obligation to contribute in the partial withdrawal year; or

(ii) The total number of contribution base units with respect to which the employer had an obligation to contribute to the plan for the plan year following the partial withdrawal year.

(2) *Partial withdrawals under section 4205(a)(2).* An employer that resumes the obligation to contribute with respect to a facility or collective bargaining agreement that gave rise to a partial withdrawal, but does not qualify to have that liability waived under paragraph (b) of this section, shall have its annual partial withdrawal liability payment reduced for any plan year in which the total number of contribution base units with respect to which the employer has an obligation to contribute equals or exceeds the sum of—

(i) The number of contribution base units for the reentered facility or agreement during that year; and

(ii) The total number of contribution base units with respect to which the employer had an obligation to contribute to the plan for the year following the partial withdrawal year.

(d) *High base year.* For purposes of paragraphs (a) and (b)(1)(iii) of this section, the high base year contributions are the average of the total contribution base units for the two plan years for which the employer's total contribution base units were highest within the five

plan years immediately preceding the beginning of the 3-year testing period defined in section 4205(b)(1)(B)(i), with respect to paragraph (a) of this section, or the partial withdrawal year, with respect to paragraph (b)(1)(iii) of this section. For purposes of paragraphs (b)(1)(ii) and (b)(2) of this section, the high base year contributions are the average number of contribution base units for the facility or under the agreement for the two plan years for which the employer's contribution base units for that facility or under that agreement were highest within the five plan years immediately preceding the partial withdrawal.

§ 2646.4 Withdrawal liability payments during pendency of abatement determination.

(a) *Bond/Escrow.* An employer that has satisfied the requirements of § 2646.3(a)(1) without regard to "90 percent of" or § 2646.3(b) for one year with respect to all partial withdrawals it incurred in a plan year may, in lieu of making scheduled withdrawal liability payments in the second year for those withdrawals, provide a bond to, or establish an escrow account for, the plan that satisfies the requirements of paragraph (b) of this section or any plan rules adopted under paragraph (d) of this section, pending a determination by the plan sponsor of whether the employer satisfies the requirements of § 2646.3(a)(1) or (b) for the second consecutive plan year. An employer that applies for abatement and neither provides a bond/escrow nor makes its withdrawal liability payments remains eligible for abatement.

(b) *Amount of bond/escrow.* The bond or escrow allowed by this section shall be in an amount equal to 50 percent of the withdrawal liability payments that would otherwise be due. The bond or escrow relating to each payment shall be furnished before the due date of that payment. A single bond or escrow may be provided for more than one payment due during the pendency of the plan sponsor's determination. The bond or escrow agreement shall provide that if the plan sponsor determines that the employer does not satisfy the requirements for abatement of its partial withdrawal liability under § 2646.3(a)(1) or (b), the bond or escrow shall be paid to the plan upon notice from the plan sponsor to the bonding or escrow agent. A bond provided under this paragraph shall be issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Act.

(c) *Notice of bond/escrow.* Concurrently with posting a bond or establishing an escrow account under this section, the employer shall notify the plan sponsor. The notice shall include a statement of the amount of the bond or escrow, the scheduled payment or payments with respect to which the bond or escrow is being furnished, and the name and address of the bonding or escrow agent.

(d) *Plan amendments concerning bond/escrow.* A plan may, by amendment, adopt rules decreasing the amount of the bond or escrow specified in paragraph (b) of this section. A plan amendment adopted under this paragraph may be applied only to the extent that it is consistent with the purposes of the Act. An amendment satisfies this requirement only if it does not create an unreasonable risk of loss to the plan.

(e) *Plan sponsor determination.* Within 60 days after the end of the plan year in which the bond/escrow is furnished, the plan sponsor shall determine whether the employer satisfied the requirements of § 2646.3(a)(1) or (b) for the second consecutive plan year. The plan sponsor shall notify the employer and the bonding or escrow agent in writing of its determination and of the consequences of its determination, as described in § 2646.2(c) or (d) and (e), as appropriate.

§ 2646.5 Computation of reduced annual partial withdrawal liability payment.

(a) *Amount of reduced payment.* An employer that satisfies the requirements of § 2646.3(c)(1) or (c)(2) shall have its annual partial withdrawal liability payment for that plan year reduced in accordance with paragraph (a)(1) or (a)(2) of this section, respectively.

(1) The reduced annual payment amount for an employer that satisfies § 2646.3(c)(1) shall be determined by substituting the number of contribution base units in the plan year in which the requirements are satisfied for the number of contribution base units in the year following the partial withdrawal year in the numerator of the fraction described in section 4206(a)(2)(A).

(2) The reduced annual payment for an employer that satisfies § 2646.3(c)(2) shall be determined by adding the contribution base units for which the employer is obligated to contribute with respect to the reentered facility or agreement in the year in which the requirements are satisfied to the numerator of the fraction described in section 4206(a)(2)(A).

(b) *Credit for reduction.* The plan sponsor shall credit the account of an employer that satisfies the requirements of § 2646.3(c)(1) or (c)(2) with the amount of annual withdrawal liability that it paid in excess of the amount described in paragraph (a)(1) or (a)(2) of this section, as appropriate. The credit shall be applied, a revised payment schedule issued, refund made and interest added, all in accordance with § 2646.2(c)(4).

§ 2646.6 Adjustment of withdrawal liability for subsequent withdrawals.

The liability of an employer for a partial or complete withdrawal from a plan subsequent to a partial withdrawal from that plan in a prior plan year shall be reduced in accordance with part 2649 of this chapter.

§ 2646.7 Multiple partial withdrawals in one plan year.

(a) *General rule.* If an employer partially withdraws from the same multiemployer plan on two or more occasions during the same plan year, the rules of § 2646.3 shall be applied as modified by this section.

(b) *Partial withdrawals under section 4205(a)(1) and (a)(2) in the same plan year.* If an employer partially withdraws from the same multiemployer plan as a result of a 70-percent contribution decline and a partial cessation of the employer's contribution obligation in the same plan year, the employer shall not be eligible for abatement under § 2646.3(b) or (c)(2) or under paragraph (c) of this section. The employer may qualify for abatement under § 2646.3(a) and (c)(1) and under any rules adopted by the plan pursuant to § 2646.8.

(c) *Multiple partial cessations of the employer's contribution obligation.* If an employer permanently ceases to have an obligation to contribute for more than one facility, under more than one collective bargaining agreement, or for one or more facilities and under one or more collective bargaining agreements, resulting in multiple partial withdrawals under section 4205(b)(2)(A) in the same plan year, the abatement rules in § 2646.3(b) shall be applied as modified by this paragraph. If an employer resumes work at all such facilities and under all such collective bargaining agreements, the determination of whether the employer qualifies for elimination of its liability under § 2643.3(b) shall be made by substituting the test set forth in paragraph (c)(1) of this section for that prescribed by § 2646.3(b)(1)(ii) or (b)(2)(ii), as applicable. If the employer resumes work at or under fewer than all the facilities or collective bargaining agreements described in this paragraph, the employer cannot qualify for elimination of its liability under § 2646.3(b). However, the employer may qualify for a reduction in its partial

withdrawal liability pursuant to paragraph (c)(2) of this section.

(1) *Resumption of work at all facilities and under all bargaining agreements.* The test under this paragraph is satisfied if for each of the two consecutive plan years referred to in § 2646.3(b), the employer's total contribution base units for the facilities and under the collective bargaining agreements with respect to which the employer incurred the multiple partial withdrawals exceed 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for those facilities and under those agreements for the base year (as defined in paragraph (d) of this section).

(2) *Resumption at fewer than all facilities or under fewer than all bargaining agreements.* If the employer satisfies the conditions in § 2646.3(b)(1)(i) and (iii) and paragraph (c)(2)(i) of this section, or the conditions in § 2646.3(b)(2) (i) and (iii) and paragraph (c)(2)(ii) of this section, as applicable, the employer's withdrawal liability shall be partially waived as set forth in paragraph (c)(2)(iii) of this section.

(i) With respect to a resumption of work under § 2646.3(b)(1), the condition under this paragraph is satisfied if, for the two consecutive plan years referred to in § 2646.3(b)(1), the employer's contribution base units for any reentered facility or agreement exceed 30 percent of the number of contribution base units with respect to which the employer had an obligation to contribute for that facility or under that agreement for the base year (as defined in paragraph (d) of this section).

(ii) With respect to a resumption of work under § 2646.3(b)(2), the condition under this paragraph is satisfied if, for the two consecutive plan years referred to in § 2646.3(b)(2), the employer's contribution base units for any reentered facility or agreement exceed 90 percent of the number of contribution base units with respect to which the employer had an obligation to contribute for that facility or under that agreement for the base year (as defined in paragraph (d) of this section).

(iii) The employer's reduced withdrawal liability and, if any, the reduced annual payments of the liability shall be determined by adding the average number of contribution base units that the employer is required to contribute for those two consecutive years for that facility(ies) or agreement(s) to the numerator of the fraction described in section 4206(a)(2)(A). The amount of any remaining partial withdrawal liability shall be paid over the schedule originally established starting with the first payment due after the revised payment schedule is issued under § 2646.2(c)(4).

(d) *Base Year.* For purposes of this section, the base year contribution base units for a reentered facility(ies) or under a reentered agreement(s) are the average number of contribution base units for the facility(ies) or under the agreement(s) for the two plan years for which the employer's contribution base units for that facility(ies) or under that agreement(s) were highest within the five plan years immediately preceding the partial withdrawal.

§ 2646.8 Plan adoption of additional abatement conditions.

(a) *General rule.* A plan may by amendment, subject to the approval of the PBGC, adopt rules for the reduction or waiver of partial withdrawal liability under conditions other than those specified in § 2646.3, provided that such conditions relate to events occurring or factors existing subsequent to a partial withdrawal year. The request for PBGC approval shall be filed after the amendment is adopted. PBGC approval shall also be required for any subsequent modification of the amendment, other than repeal of the amendment. A plan amendment under this section may not be put into effect until it is approved by the PBGC. An amendment that is approved by the PBGC may apply retroactively.

(b) *Who may request.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign and submit the request.

(c) *Where to file.* The request shall be addressed to the Case Operations and Compliance Department (45200), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, DC 20006.

(d) *Information.* Each request shall contain the following information:

(1) The name and address of the plan for which the plan amendment is being submitted and the telephone number of the plan sponsor or its duly authorized representative.

(2) The nine-digit Employer Identification Number (EIN) assigned to the plan sponsor by the Internal Revenue Service and the three-digit Plan Identification Number (PIN) assigned to the plan by the plan sponsor, and, if different, also the EIN–PIN last filed with the PBGC. If an EIN–PIN has not been assigned, that should be indicated.

(3) A copy of the executed amendment, including—

(i) the date on which the amendment was adopted;

(ii) the proposed effective date;

(iii) the full text of the rules on the reduction or waiver of partial withdrawal liability; and

(iv) the full text of the rules adjusting the reduction in the employer's liability for a subsequent partial or complete withdrawal, as required by section 4206(b)(1) of the Act.

(4) A copy of the most recent actuarial valuation report of the plan.

(5) A statement certifying that notice of the adoption of the amendment and of the request for approval filed under this section has been given to all employers that have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan.

(e) *Supplemental information.* In addition to the information described in paragraph (d) of this section, a plan may submit any other information that it believes is pertinent to its request. The PBGC may require the plan sponsor to submit any other information that the PBGC determines that it needs to review a request under this section.

(f) *Criteria for PBGC approval.* The PBGC shall approve a plan amendment authorized by paragraph (a) of this section if it determines that the rules therein are consistent with the purposes of the Act. An abatement amendment is not consistent with the purposes of the Act unless the PBGC determines that—

(1) The amendment is not adverse to the interests of plan participants and beneficiaries in the aggregate; and

(2) The amendment would not significantly increase the PBGC's risk of loss with respect to the plan.

(Approved by the Office of Management and Budget under control no. 1212–0039)

Issued at Washington, DC on this 9th day of December 1992.

Lynn Martin,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this final regulation and authorizing its chairperson to issue same.

Carol Connor Flowe,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 92–30343 Filed 12–15–92; 8:45 am]

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29 CFR Parts 2640 and 2649

RIN 1212-AA37

Adjustment of Liability for a Withdrawal Subsequent to a Partial Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation establishes rules for adjusting the statutory credit against the partial or complete withdrawal liability of an employer that had previously partially withdrawn from the same multiemployer pension plan. This regulation is required by the Employee Retirement Income Security Act, as amended. The purpose of the statutory credit is to avoid double-charging an employer for the same unfunded vested benefits upon which its liability for the prior partial withdrawal was based. However, in certain cases, this credit must be reduced to ensure that the employer does not avoid its fair share of liability based on plan experience and its participation in the plan subsequent to the prior partial withdrawal. This regulation establishes rules for reducing the credit in appropriate cases.

EFFECTIVE DATE: January 15, 1993.

FOR FURTHER INFORMATION CONTACT: Deborah J. Bisco, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; (202) 778-8824 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 4205(a) of Employee Retirement Income Security Act of 1974, as amended ("ERISA or "the Act"), sets forth the circumstances under which ar employer is deemed to have partially withdrawn from a multiemployer pension plan. The basic amount of an employer's liability for a partial withdrawal is calculated under section 4206(a). Section 4206(b) provides special rules for adjusting an employer's liability for a complete or partial withdrawal subsequent to a partial withdrawal from the same plan. Section 4206(b)(1) states that the liability for the subsequent withdrawal shall be reduced by the amount of the previous partial withdrawal liability, less any waiver or reduction of the previous liability. Section 4206(b)(2) requires the Pension Benefit Guaranty Corporation ("PBGC") to prescribe regulations providing for adjustments to this credit in order to ensure that the total liability of the employer accurately reflects that employer's proper share of plan liabilities.

On October 6, 1987, the PBGC published a proposed regulation on Adjustment of Liability for a Withdrawal Subsequent to a Partial Withdrawal (52 FR 37329). The regulation proposed mandatory rules for the reduction of the statutory credit for an employer who has partially withdrawn from a multiemployer plan and thereafter incurs another partial or complete withdrawal from the same plan. No written comments were received on the proposal, and the PBGC is, therefore, adopting the regulation as proposed, except for one correction, an editorial revision and a minor change.

ERISA section 4206(b)(1) provides that:

> In the case of an employer that has withdrawal liability for a partial withdrawal from a plan, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (*reduced by an abatement or reduction of such liability*) of the employer with respect to the plan for a previous plan year. (emphasis added)

Proposed § 2649.3 (relating to the presumptive method) and proposed § 2649.4 (relating to the modified presumptive method) contained identical provisions for reducing the credit for a prior partial withdrawal by the amount of any abatement of liability for that withdrawal. Proposed § 2649.5 (relating to the rolling-5 method) erroneously omitted any mention of a reduction in the credit, and proposed § 2649.6 (relating to the direct attribution method) merely repeated the statutory language.

The PBGC has determined that the reduction in the credit should be identical for each of the statutory allocation methods, because the reduction merely represents the amount of the liability for the prior partial withdrawal that was waived or otherwise eliminated. Accordingly, the regulation has been revised to add a new § 2649.7 setting forth the rule for reducing the credit to reflect an abatement or other reduction of the prior partial withdrawal liability. (Proposed §§ 2649.7 and 2649.8 have been renumbered § 2649.8 and § 2649.9.) The rule in new § 2649.7 applies to the credits computed for each of the statutory allocation methods under §§ 2649.3–2649.6.

The new § 2649.7 does not include the reference contained in proposed §§ 2649.3(d) and 2649.4(d) to "abate[ment] pursuant to section 4208 of the Act". The specific reference to section 4208 has been deleted to prevent any inference that a credit reduction for reasons other than section 4208 should be treated differently. The reduction of the credit described in § 2649.7 applies to any employer whose withdrawal liability for a prior partial withdrawal has been "reduced by any abatement or reduction of such liability". Thus, the reduction would apply with respect to any abatement under ERISA section 4208, as well as to any adjustment of liability pursuant to, for example, an arbitrator's award.

The parenthetical phrase "determined without regard to any adjustments" has been deleted from § 2649.4(c)(2). This editorial change was made to avoid creating any negative inference concerning § 2649.4(c)(1), which does not contain this phrase. The meaning of § 2649.4(c)(2) is not changed by this revision.

The PBGC received a question concerning the language in § 2649.5, which requires that the amount of the liability for a prior partial withdrawal be treated as if it was "fully amortized in level annual installments" over a number of years. The questioner was uncertain whether the amount constituting principal should be considered level over the years, or if the total amount of both principal and interest must be in "level annual installments". The latter is the correct interpretation of § 2649.5, *i.e.*, that the total installment amount remains level over the years, and interest is a larger portion of the amount in earlier years of the payment term. This is the same interpretation as has been consistently given the identical language in section 4211(c)(2) of ERISA.

Compliance With Rulemaking Guidelines

The PBGC has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more, create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation will result in some shifting of costs among employers that contribute to multiemployer plans, but will not, in the aggregate, increase costs.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this rule will not have a

significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The regulation affects only multiemployer plans covered by the PBGC. Defining "small plans" as those with under 100 participants, they represent less than 14% of all multiemployer plans covered by the PBGC (346 out of 2,500). Approximately 500,000 employers contribute to multiemployer plans, most of them small employers (under 100 employees). The PBGC estimates that fewer than 10,000 (2 percent) of those employers will be required to pay partial withdrawal liability in any year, and an even smaller percentage will subsequently completely or partially withdraw from the same plan and thereby become subject to these rules. Therefore, the PBGC waives compliance with sections 603 and 604 of the Regulatory Flexibility Act.

List of Subjects in 29 CFR Parts 2640 and 2649

Employee Benefit Plans, Pensions.

In consideration of the foregoing, the PBGC amends subchapter F of chapter XXVI, title 29, Code of Federal Regulations as follows:

PART 2640—DEFINITIONS

1. The authority for part 2640 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

2. Part 2640 is amended by adding a new § 2640.8 to read as follows:

§ 2640.8 Adjustment of Liability for a Withdrawal Subsequent to a Partial Withdrawal.

For purposes of part 2649—

Complete withdrawal means a complete withdrawal as described in section 4203 of the Act.

Partial Withdrawal means a partial withdrawal as described in section 4205 of the Act.

3. A new part 2649 is added to read as follows:

PART 2649—ADJUSTMENT OF LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

Sec.

Authority: 29 U.S.C. 1302(b)(3) and 1386(b).

§ 2649.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules, pursuant to section 4206(b) of the Act, for adjusting the partial or complete withdrawal liability of an employer that previously partially withdrew from the same multiemployer plan. Section 4206(b)(1) provides that when an employer that has partially withdrawn from a plan subsequently incurs liability for another partial or a complete withdrawal from that plan, the employer's liability for the subsequent withdrawal is to be reduced by the amount of its liability for the prior partial withdrawal (less any waiver or reduction of that prior liability). Section 4206(b)(2) requires the PBGC to prescribe regulations adjusting the amount of this credit to ensure that the liability for the subsequent withdrawal properly reflects the employer's share of liability with respect to the plan. The purpose of the credit is to protect a withdrawing employer from being charged twice for the same unfunded vested benefits of the plan. The reduction in the credit protects the other employers in the plan from becoming responsible for unfunded vested benefits properly allocable to the withdrawing employer. In the interests of simplicity, the rules in this part provide for, generally, a one-step calculation of the adjusted credit under section 4206(b)(2) against the subsequent liability, rather than for separate calculations first of the credit under section 4206(b)(1) and then of the reduction in the credit under paragraph (b)(2) of that section. In cases where the withdrawal liability for the prior partial withdrawal was reduced by an abatement or other reduction of that liability, the adjusted credit is further reduced in accordance with § 2649.7 of this part.

(b) *Scope.* This part applies to multiemployer plans covered under section 4021(a) of the Act and not excluded by section 4021(b), and to employers that have partially withdrawn from such plans after September 25, 1980 and subsequently completely or partially withdraw from the same plan after January 15, 1993.

§ 2649.2 Credit against liability for a subsequent withdrawal.

Whenever an employer that was assessed withdrawal liability for a partial withdrawal from a plan partially or completely withdraws from that plan in a subsequent plan year, it shall receive a credit against the new withdrawal liability in an amount greater than or equal to zero, determined in accordance with this part. If the credit determined under §§ 2649.3–2649.8 is less than zero, the amount of the credit shall equal zero.

§ 2649.3 Amount of credit in plans using the presumptive method.

(a) *General.* In a plan that uses the presumptive allocation method described in section 4211(b) of the Act, the credit shall equal the sum of the unamortized old liabilities determined under paragraph (b) of this section, multiplied by the fractions described or determined under paragraph (c) of this section. When an employer's prior partial withdrawal liability has been reduced or waived, this credit shall be adjusted in accordance with § 2649.7.

(b) *Unamortized old liabilities.* The amounts determined under this paragraph are the employer's proportional shares, if any, of the unamortized amounts as of the end of the plan year preceding the withdrawal for which the credit is being calculated, of—

(1) The plan's unfunded vested benefits as of the end of the last plan year ending before September 26, 1980;

(2) The annual changes in the plan's unfunded vested benefits for plan years ending after September 25, 1980, and before the year of the prior partial withdrawal; and

(3) The reallocated unfunded vested benefits (if any), as determined under section 4211(b)(4), for plan years ending before the year of the prior partial withdrawal.

(c) *Employer's allocable share of old liabilities.* The sum of the amounts determined under paragraph (b) are multiplied by the two fractions described in this paragraph in order to determine the amount of the old liabilities that was previously assessed against the employer.

(1) The first fraction is the fraction determined under section 4206(a)(2) of the Act for the prior partial withdrawal.

(2) The second fraction is a fraction, the numerator of which is the amount of the liability assessed against the employer for the prior partial withdrawal, and the denominator of which is the product of—

(i) The amount of unfunded vested benefits allocable to the employer as if

it had completely withdrawn as of the date of the prior partial withdrawal (determined without regard to any adjustments), multiplied by—

(ii) The fraction determined under section 4206(a)(2) for the prior partial withdrawal.

§ 2649.4 Amount of credit in plans using the modified presumptive method.

(a) *General.* In a plan that uses the modified presumptive method described in section 4211(c)(2) of the Act, the credit shall equal the sum of the unamortized old liabilities determined under paragraph (b) of this section, multiplied by the fractions described or determined under paragraph (c) of this section. When an employer's prior partial withdrawal liability has been reduced or waived, this credit shall be adjusted in accordance with § 2649.7.

(b) *Unamortized old liabilities.* The amounts described in this paragraph shall be determined as of the end of the plan year preceding the withdrawal for which the credit is being calculated, and are the employer's proportional shares, if any, of—

(1) The plan's unfunded vested benefits as of the end of the last plan year ending before September 26, 1980, reduced as if those obligations were being fully amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; and

(2) The aggregate post-1980 change amount determined under section 4211(c)(2)(C) as if the employer had completely withdrawn in the year of the prior partial withdrawal, reduced as if those obligations were being fully amortized in level annual installments over the 5-year period beginning with the plan year in which the prior partial withdrawal occurred.

(c) *Employer's allocable share of old liabilities.* The sum of the amounts determined under paragraph (b) are multiplied by the two fractions described in this paragraph in order to determine the amount of old liabilities that was previously assessed against the employer.

(1) The first fraction is the fraction determined under section 4206(a)(2) of the Act for the prior partial withdrawal.

(2) The second fraction is a fraction, the numerator of which is the amount of the liability assessed against the employer for the prior partial withdrawal, and the denominator of which is the product of—

(i) The amount of unfunded vested benefits allocable to the employer as if it had completely withdrawn as of the date of the prior partial withdrawal (determined without regard to any adjustments), multiplied by—

(ii) The fraction determined under section 4206(a)(2) for the prior partial withdrawal.

§ 2649.5 Amount of credit in plans using the rolling-5 method.

In a plan that uses the rolling-5 allocation method described in section 4211(c)(3) of the Act, the credit shall equal the amount of the liability assessed for the prior partial withdrawal, reduced as if that amount was being fully amortized in level annual installments over the 5-year period beginning with the plan year in which the prior partial withdrawal occurred. When an employer's prior partial withdrawal liability has been reduced or waived, this credit shall be adjusted in accordance with § 2649.7.

§ 2649.6 Amount of credit in plans using the direct attribution method.

In a plan that uses the direct attribution allocation method described in section 4211(c)(4) of the Act, the credit shall equal the amount of the liability assessed for the prior partial withdrawal, reduced as if that amount was being fully amortized in level annual installments beginning with the plan year in which the prior partial withdrawal occurred, over the greater of 10 years or the amortization period for the resulting base when the combined charge base and the combined credit base are offset under section 412(b)(4) of the Internal Revenue Code. When an employer's prior partial withdrawal liability has been reduced or waived, this credit shall be adjusted in accordance with § 2649.7.

§ 2649.7 Reduction of credit for abatement or other reduction of prior partial withdrawal liability.

(a) *General.* If an employer's withdrawal liability for a prior partial withdrawal has been reduced or waived, the credit determined pursuant to §§ 2649.3–2649.6 shall be adjusted in accordance with this section.

(b) *Computation.* The adjusted credit is calculated by multiplying the credit determined under the preceding sections of this part by a fraction—

(1) the numerator of which is the excess of the total partial withdrawal liability of the employer for all partial withdrawals in prior years (excluding those partial withdrawals for which the credit is zero) over the present value of each abatement or other reduction of that prior withdrawal liability calculated as of the date on which that prior partial withdrawal liability was determined; and

(2) the denominator of which is the total partial withdrawal liability of the employer for all partial withdrawals in prior years (excluding those partial withdrawals for which the credit is zero).

§ 2649.8 Amount of credit in plans using alternative allocation methods.

A plan that has adopted an alternative method of allocating unfunded vested benefits pursuant to section 4211(c)(5) of the Act and part 2642 of this subchapter shall adopt, by plan amendment, a method of calculating the credit provided by § 2649.2 that is consistent with the rules in §§ 2649.3–2649.7 for plans using the statutory allocation method most similar to the plan's alternative allocation method.

§ 2649.9 Special rule for 70-percent decline partial withdrawals.

For the purposes of applying the rules in §§ 2649.3–2649.8 in any case in which either the prior or subsequent partial withdrawal resulted from a 70-percent contribution decline (or a 35-percent decline in the case of certain retail food industry plans), the first year of the 3-year testing period shall be deemed to be the plan year in which the partial withdrawal occurred.

Issued at Washington, D.C. on this 9th day of December 1992.

Lynn Martin,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this final regulation and authorizing its chairman to issue same.

Carol Connor Flowe,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 92–30345 Filed 12–15–92; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9E3768 and 0E3947/R1172; FRL–4173–4]

RIN 2070–AB78

Pesticide Tolerances for Oryzalin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the herbicide oryzalin in or on the raw agricultural commodities guava and papaya. This regulation to establish maximum

permissible levels for residues of the herbicide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: This regulation becomes effective December 16, 1992.

ADDRESSES: Written objections, identified by the document control number, [PP 9E3768 and 0E3947/R1172], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5310.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 30, 1992 (57 FR 45018), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions (PP) 9E3768 and 0E3947 to EPA on behalf of the Agricultural Experiment Station of Hawaii. These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of tolerances for residues of the herbicide oryzalin (3,5-dinitro-N^4,N^4-dipropylsulfanilamide) in or on the raw agricultural commodities banana and guava (PP 0E3947) and papaya (PP 9E3768) at 0.05 part per million (ppm). The petition proposing tolerances for banana and guava (PP 0E3947) was subsequently amended by IR-4, withdrawing without prejudice to subsequent filing the proposal for establishment of a tolerance for residues of oryzalin in or on banana.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 27, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By revising § 180.304, to read as follows:

§ 180.304 Oryzalin; tolerances for residues.

(a) Tolerances are established for the combined residues of the herbicide oryzalin (3,5-dinitro-N^4,N^4-dipropylsulfanilamide) in or on the following raw agricultural commodities:

Commodity	Parts per million
Almond, hulls	0.05
Avocados	0.05
Citrus fruits	0.05
Cottonseed	0.05
Figs	0.05
Grain, barley	0.05
Grain, wheat	0.05
Kiwifruits	0.05
Nuts	0.05
Olives	0.05
Peas (succulent)	0.05
Pistachios	0.05
Pome fruits	0.05
Pomegranates	0.05
Potatoes	0.05
Small fruits	0.05
Soybeans	0.1
Stone fruits	0.05

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of oryzalin (3,5-dinitro-N^4,N^4-dipropylsulfanilamide) in or on the following raw agricultural commodities:

Commodity	Parts per million
Guava	0.05
Papayas	0.05

[FR Doc. 92-30436 Filed 12-15-92; 8:45 am]

BILLING CODE 6560-50-F

[PP 8E3628/R1171; FRL-4172-7]

RIN 2070-AB78

Pesticide Tolerances for 2-(2-Chlorophenyl)Methyl-4,4-Dimethyl-3-Isoxazolidinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone (also referred to as clomazone) in or on the raw agricultural commodity sweet potato. This regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: This regulation becomes effective on December 16, 1992.

ADDRESSES: Written objections, identified by the document control

number, [PP 8E3628/R1171], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-5310.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 16, 1992 (57 FR 42730), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 8E3628 to EPA on behalf of the agricultural experiment stations of Georgia, Louisiana, North Carolina, and Oklahoma.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of a tolerance for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone in or on the raw agricultural commodity sweet potato at 0.05 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 27, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.425 is amended in the table therein by adding and alphabetically inserting the raw agricultural commodity sweet potato, to read as follows:

§ 180.425 2-(2-Chlorophenyl)methyl-4,4-dimethy-3-isoxazolidinone; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Sweet potato	0.05

[FR Doc. 92-30437 Filed 12-15-92; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 180, 185, and 186

[PP 6F3380, FAP 8H5502, and FAP 8H5568/R1161; FRL-4174-1]

RIN 2070-AB78

Pesticide Tolerances and Food and Feed Additive Regulations for Glyphosate; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that established tolerances and food and feed additive regulations for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethyl phosphonic acid by addressing a comment on the proposal that was inadvertently overlooked in issuing the final rule. No change is made in the final rule as a result of the comment.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305-6800.

SUPPLEMENTARY INFORMATION: In FR Doc. 92-22252 appearing at page 42701 in the **Federal Register** of September 16, 1992, the following changes are made in the first column:

1. The one-sentence paragraph "There were no comments or requests for referral to an advisory committee received in response to the proposed rule." is removed.

2. The following three new paragraphs are inserted in place of the removed paragraph:

A comment was received from Mr. Stephen A. McFadden of Pasco, WA, in response to EPA's proposal to increase the tolerance level of glyphosate. Mr. McFadden expressed two primary concerns: (1) An increase in the tolerance level for glyphosate may result in increased plant metabolites which may affect public health, and (2) the introduction of genetically engineered soybeans with a glyphosate resistance could result in a similar increase.

Agency response to concern (1): When glyphosate is applied as a harvest aid (the purpose for which the increased tolerances were sought) the treated soybeans are mature, and no additional plant metabolites would be accumulated in the seed.

Agency response to concern (2): The proposed harvest aid use and associated

tolerance increase are for conventional soybeans only. Genetically engineered soybeans are now in the testing stage and are regulated by the USDA and the FDA. Mr. McFadden's comments regarding the metabolism of genetically engineered plants have been forwarded to those Agencies.

Dated: November 27, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–30298 Filed 12–15–92; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 271

[FRL–4545–3]

North Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: North Carolina has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). North Carolina's revisions consist of the provisions contained in Non-HSWA Cluster VI, promulgated July 1, 1989, through June 30, 1990, and HSWA Cluster II promulgated between July 1, 1987, and June 30, 1990. These requirements are listed in Section B of this document. The Environmental Protection Agency (EPA) has reviewed North Carolina's application(s) and has made a decision, subject to public review and comment, that the North Carolina hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA approves North Carolina's hazardous waste program revisions. North Carolina's applications for program revisions are available for public review and comment.

DATES: Final authorization for North Carolina's program revisions shall be effective February 16, 1993 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on North Carolina's program revision applications must be received by the close of business, January 15, 1993.

ADDRESSES: Copies of North Carolina's program revision applications are available during normal business hours at the following addresses for inspection and copying: North Carolina Department of Environment, Health, and Natural Resources, Hazardous Waste Branch, P.O. Box 27687, Raleigh, North Carolina 27611–7687; U.S. EPA Region IV, Library, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–268 and 124 and 270.

B. North Carolina

North Carolina initially received final authorization for its base RCRA program effective on December 31, 1984 (49 FR 48694). North Carolina has received authorization for revisions to its program on March 25, 1986, (51 FR 10211), October 4, 1988 (53 FR 29460), April 10, 1989 (54 FR 6290), November 21, 1989 (54 FR 38993), March 19, 1991 (56 FR 1930), September 17, 1991 (56 FR 33206), and June 26, 1992 (57 FR 15254). On January 26, 1992, North Carolina submitted program revision applications for additional program approvals. Today, North Carolina is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed North Carolina's applications and has made an immediate final decision that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to North Carolina. The public may submit written comments on EPA's immediate final decision up until January 15, 1993.

Copies of North Carolina's application(s) for these program revisions are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

Approval of North Carolina's program revisions shall become effective February 16, 1993, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either: (1) A withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the States is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

North Carolina is today seeking authority to administer the following Federal requirements promulgated on August 14, 1989, through June 1, 1990:

Federal requirement	HSWA or FR reference	Promulgation	State authority
Delay of Closure; Period for Hazardous Waste Management Facilities	54 FR 33376	8/14/89	15A NCAC 13A.0009(c) 15A NCAC 13A.0009(h) 15A NCAC 13A.0009(l) 15A NCAC 13A.0010(b) 15A NCAC 13A.0010(g) 15A NCAC 13A.0010(h) 15A NCAC 13A.0013(g) 15A NCAC 13A.0010(h) 15A NCAC 13A.0013(g)
Mining Waste Exclusion I	54 FR 36592	9/1/89	15A NCAC 13A.0006(a)
Testing and Monitoring Activities	54 FR 40260	9/29/89	15A NCAC 13A.0001(d) 15A NCAC 13A.0006(e)
Changes to Part 124 not accounted for by present checklists	Various	Various	15A NCAC 13A.0005
Mining Waste Exclusion II	55 FR 2322	1/23/90	15A NCAC 13A.0006(a) 15A NCAC 13A.0002(b) 15A NCAC 13A.0007(b) 15A NCAC 13A.0006(d)
Modifications of F019 Listing	55 FR 5340	2/14/90	15A NCAC 13A.0006(d)
Testing and Monitoring Activities; Technical Corrections	55 FR 8948	3/9/90	15A NCAC 13A.0001(d) 15A NCAC 13A.0006(e)
Criteria for Listing Toxic Wastes; Technical Amendment	55 FR 18726	5/4/90	15A NCAC 13A.0006(b)
Land Disposal Restrictions for Third Third Schedule Waste	55 FR 22520	6/1/90	15A NCAC 13A.0006(c) 15A NCAC 13A.0006(d) 15A NCAC 13A.0006(e) 15A NCAC 13A.0007(a) 15A NCAC 13A.0007(c) 15A NCAC 13A.0009(c) 15A NCAC 13A.0009(l)(1) 15A NCAC 13A.0009(m) 15A NCAC 13A.0009(n) 15A NCAC 13A.0009(o) 15A NCAC 13A.0010(a) 15A NCAC 13A.0010(b) 15A NCAC 13A.0010(k) 15A NCAC 13A.0010(l) 15A NCAC 13A.0010(m) 15A NCAC 13A.0010(n) 15A NCAC 13A.0012(a) 15A NCAC 13A.0012(b) 15A NCAC 13A.0012(c) 15A NCAC 13A.0012(e) 15A NCAC 13A.0013(a)
Financial Responsibility; Settlement Agreement; Correction [3]	55 FR 25976	6/26/90	15A NCAC 13A.0009(h) 15A NCAC 13A.0010(g)
Land Disposal Restriction Amendments to First Third Scheduled Waste	54 FR 18836	5/2/89	15A NCAC 13A.0012(c)
Land Disposal Restriction Amendments to Second Third Scheduled Waste	54 FR 26594	6/23/89	15A NCAC 13A.0012(b) 15A NCAC 13A.0012(c)
Land Disposal Restriction Correction to First Third Scheduled Waste	54 FR 36967	9/6/89	15A NCAC 13A.0011(a) 15A NCAC 13A.0012(a) 15A NCAC 13A.0012(b) 15A NCAC 13A.0012(d)
Reportable Quantity Adjustment Methyl Bromide Production Waste	54 FR 41402	10/6/89	15A NCAC 13A.0006(d) 15A NCAC 13A.0006(e)
Reportable Quantity Adjustment	54 FR 50968	12/11/89	15A NCAC 13A.0006(d) 15A NCAC 13A.0006(e)
Listing of 1-Dimethylhydrazine Production Waste	55 FR 18496	5/2/90	15A NCAC 13A.0006(d) 15A NCAC 13A.0006(e)
Identification and Listing of Hazardous Waste	53 FR 27162	7/19/88	15A NCAC 13A.0006(a)
Farmer Exemptions Technical Corrections	53 FR 27164	7/19/88	15A NCAC 13A.0007(a) 15A NCAC 13A.0009(b) 15A NCAC 13A.0010(a) 15A NCAC 13A.0012(a) 15A NCAC 13A.0013(a)
Land Disposal Restrictions First Third [2]	53 FR 31138	8/17/88	15A NCAC 13A.0009(c) 15A NCAC 13A.0009(f) 15A NCAC 13A.0010(15A NCAC 13A.0010(e) 15A NCAC 13A.0011(a) 15A NCAC 13A.0012(a) 15A NCAC 13A.0012(b) 15A NCAC 13A.0012(c) 15A NCAC 13A.0012(d)
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems.	53 FR 34079	9/2/88	15A NCAC 13A.0002(b) 15A NCAC 13A.0009(h) 15A NCAC 13A.0009(k) 15A NCAC 13A.0010(g) 15A NCAC 13A.0010(j) 15A NCAC 13A.0013(a)

Federal requirement	HSWA or FR reference	Promulgation	State authority
Exports of Hazardous Waste [1]	51 FR 28664	8/8/86	15A NCAC 13A.0006(a)
			15A NCAC 13A.0007(d)
			15A NCAC 13A.0007(e)
			15A NCAC 13A.0007(f)
			15A NCAC 13A.0007(g)
			15A NCAC 13A.0007(h)
			15A NCAC 13A.0008(b)
California List Waste	52 FR 25760	7/8/87	15A NCAC 13A.0001(d)
			15A NCAC 13A.0007(g)
			15A NCAC 13A.0009(c)
			15A NCAC 13A.0010(b)
			15A NCAC 13A.0012(a)
			15A NCAC 13A.0012(b)
			15A NCAC 13A.0012(c)
			15A NCAC 13A.0012(d)
			15A NCAC 13A.0012(e)
			15A NCAC 13A.0013(g)
			15A NCAC 13A.0013(j)
Exception Reporting for Small Quantity Generators of Hazardous Waste	52 FR 35894	9/23/87	15A NCAC 13A.0007(d)
HSWA Codification Rule 2 [4]	52 FR 45788	12/1/87	15A NCAC 13A.0013(b)
			15A NCAC 13A.0009(g)
			15A NCAC 13A.0010(a)
			15A NCAC 13A.0013(l)
			15A NCAC 13A.0013(g)
HSWA Codification Rule Double liners, Correction	55 FR 19262	5/9/90	15A NCAC 13A.0009(l)(1)
			15A NCAC 13A.0009(o)
Organic Air Emissions Standards for Process Vents and Equipment Leaks	55 FR 25454	6/21/90	15A NCAC 13A.0001(d)
			15A NCAC 13A.0006(a)
			15A NCAC 13A.0009(c)
			15A NCAC 13A.0009(f)
			15A NCAC 13A.0009(t)
			15A NCAC 13A.0009(u)
			15A NCAC 13A.0010(b)
			15A NCAC 13A.0010(e)
			15A NCAC 13A.0010(r)
			15A NCAC 13A.0010(s)
			15A NCAC 13A.0013(b)
Land Disposal Restrictions	51 FR 40572 52 FR 21010		15A NCAC 13A.0001(c)
			15A NCAC 13A.0002(b)
			15A NCAC 13A.0003(a)
			15A NCAC 13A.0006(a)
			15A NCAC 13A.0006(c)
			15A NCAC 13A.0006(d)
			15A NCAC 13A.0007(a)
			15A NCAC 13A.0008(a)
			15A NCAC 13A.0009(b)
			15A NCAC 13A.0009(c)
			15A NCAC 13A.0009(f)
			15A NCAC 13A.0010(a)
			15A NCAC 13A.0010(b)
			15A NCAC 13A.0010(e)
			15A NCAC 13A.0012(a)
			15A NCAC 13A.0012(b)
			15A NCAC 13A.0012(c)
			15A NCAC 13A.0012(d)
			15A NCAC 13A.0012(e)
			15A NCAC 13A.0013(b)
			15A NCAC 13A.0013(f)
			15A NCAC 13A.0013(g)

Limitations:

[1] North Carolina cannot assume the authority for the following aspects of regulating hazardous waste exports which have implications on the provisions adopted at 260.50 through 262.57 on Checklist 31. This authority is not delegable to the States.

- 1 Receive notifications of the intent to Export;
- 1 Transmit information, regarding intent to Export, to foreign countries through the Department of State; and,
- 1 Transmit acknowledgement of consent to the exporter.

EPA feels that foreign policy interest and exporters interest in expeditious processing are better served by the Agency retaining the above listed functions. The Department of State would have the single point of contact in administering the export program, allowing for uniformity and expeditious transmission of information between the United States and foreign countries.

[2] North Carolina cannot assume the authority for implementing the following provisions pertaining to the Land Disposal Restrictions because these authorities are *not* delegable to the States. §§ 268.5, 268.42(b), 268.44, and 268.6. This restriction has implications on the provisions listed on checklists 39, 62, and 63.

[3] North Carolina was authorized for financial responsibility settlement agreement, (51 FR 16422) on 10/4/88. This action only incorporates the corrections promulgated on 6/26/90 which added §§ 264.113 and 265.113 to the checklist.

[4] North Carolina does not allow underground injection as a means of disposal.

C. Decision

I conclude that North Carolina's application(s) for these program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, North Carolina is granted final authorization to operate its hazardous waste program as revised, except where otherwise noted.

North Carolina now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application, its previously approved authorities and where otherwise noted in this Notice. North Carolina also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of North Carolina's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities.

This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Patrick M. Tobin,

Regional Administrator.

[FR Doc. 92-30420 Filed 12-15-92; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 57, No. 242
Wednesday, December 16, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300272; FRL-4179-1]

RIN 2070-AC18

Tetrapotassium Pyrophosphate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of tetrapotassium pyrophosphate (CAS Reg. No. 7320-34-5) when used as an inert ingredient (sequestrant, anticaking agent, or conditioning agent) in pesticide formulations applied to growing crops only. This proposed regulation was requested by the Monsanto Co.

DATES: Comments, identified by the document control number [OPP-300272], must be received on or before January 15, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Rosalind L. Gross, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 724A, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5971.

SUPPLEMENTARY INFORMATION: Monsanto Co., Suite 1100, 700 14th St., NW., Washington, DC 20005, submitted pesticide petition (PP) 1E03984 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of tetrapotassium pyrophosphate ((CAS Reg. No. 7320-34-5), also known as potassium pyrophosphate) when used as an inert ingredient (sequestrant, anticaking agent, or conditioning agent) not to exceed 10 percent in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

The Agency has decided that the data normally required to support the proposed tolerance exemption for tetrapotassium pyrophosphate will not need to be submitted. The rationale for this decision is described below.

1. Tetrapotassium pyrophosphate is an inorganic compound that breaks down into potassium and phosphate ions. These potassium and phosphate ions are indistinguishable from the potassium and phosphate ions already present in the environment.

2. In solution, tetrapotassium pyrophosphate and sodium chloride exist in their ionic forms and as such are indistinguishable chemically and biologically from an ionic solution of tetrasodium pyrophosphate and potassium chloride.

3. Tetrasodium pyrophosphate is exempt from the requirement of a tolerance when used as inert (or occasionally active) ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest under 40 CFR 180.1001(c) and is recognized as GRAS under 21 CFR 182.6789 and 21 CFR 582.6789 as a sequestrant.

4. Potassium chloride is exempt from the requirement of a tolerance when used as inert (or occasionally active) ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest under 40 CFR 180.1001(c) and is recognized as GRAS under 21 CFR 182.5622 as a dietary supplement and is recognized as GRAS under 21 CFR 582.5622 as a nutrient and/or dietary supplement.

5. Tetrapotassium pyrophosphate is chemically similar to several chemicals (e.g., potassium phosphate) already exempt from the requirement of a tolerance when used as inert (or occasionally active) ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest under 40 CFR 180.1001(c).

6. Tetrapotassium pyrophosphate is chemically similar to several chemicals (e.g., dipotassium hydrogen phosphate, potassium dihydrogen phosphate) already exempt from the requirement of

a tolerance when used as inert (or occasionally active) ingredients in pesticide formulations applied to growing crops only under 40 CFR 180.1001(d).

7. Tetrapotassium pyrophosphate is chemically similar to several potassium and sodium salts (e.g., potassium phosphate, sodium phosphate) which are considered minimum risk inerts (List 4 inerts).

8. Tetrapotassium pyrophosphate (potassium pyrophosphate) was listed in "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized As Safe (GRAS)," Appendix A, Part II, NAS, Washington, DC, pp. 14-16, U.S. Department of Commerce, National Technical Information Service, Order No. PB221-949, 1972.

9. Tetrapotassium pyrophosphate is approved for use under 21 CFR 173.315 in flume water for washing sugar beets.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300272]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: December 4, 1992.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Tetrapotassium pyrophosphate (CAS Reg. No. 7320-345).	Not to exceed 10 percent of formulation	Sequestrant, anticaking agent, conditioning agent.
* * * * * * *		

* * * * *

[FR Doc. 92-30435 Filed 12-15-92; 8:45 am]

BILLING CODE 6560-50-F

Notices

Federal Register
Vol. 57, No. 242
Wednesday, December 16, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COUNCIL ON ENVIRONMENTAL QUALITY

Availability of Annual Report on Endangered Species Act Exemption

December 8, 1992.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Notice of availability of Annual Report on Endangered Species Act Exemption.

SUMMARY: This notice announces the availability of the Annual Report submitted by Basin Electric Power Cooperative, as Project Manger for the Missouri Basin Power Project in the matter of an exemption granted from the requirements of the Endangered Species Act to Grayrocks Dam. The lead federal agency in the project is the Rural Electrification Administration.

DATES: The report was submitted to the Council on December 1, 1992.

ADDRESSES: The Annual Report is available from Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND 58501–0564; Telephone: (701) 223–0441.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503. (202) 395–5754.

SUPPLEMENTARY INFORMATION: Under the Endangered Species Act, and agency granted an exemption under 16 U.S.C. 1536(h) must submit to the Council on Environmental Quality an annual report describing its compliance methods with the mitigation and enhancement measures prescribed by 16 U.S.C. 1536. See 16 U.S.C. 1536(1)(2). This subsection further requires that the Council publish availability of the report in the **Federal Register.**

On February 7, 1979, the Endangered Species Committee granted an exemption from the requirements of the Endangered Species Act to Grayrocks Dam. In granting the Exemption Order, the Committee, as required by the act, established requirements for reasonable mitigation and enhancement measures. These requirements are set out in an "Agreement of Settlement and Compromise" and is part of the Annual Report announced here.

David B. Struhs,

Chief of Staff.

[FR Doc. 92–30475 Filed 12–15–92; 8:45 am]

BILLING CODE 3125–01–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Pacific Billfish Angler Survey.

Agency Form Number: NOAA 88–10.

OMB Approval Number: 0648–0020.

Type of Request: Revision of a currently approved collection.

Burden: 175 hours.

Number of Respondents: 2,500.

Avg Hours Per Response: 4 minutes.

Needs and Uses: This survey determines the annual trend in catch of billfish in the Pacific Ocean by recreational fishermen, and the effect on catch by domestic and foreign fleet operators. Data are used in domestic and international discussions, by Federal fishery councils and complies with requirements of the Marine Game Fish Research Act.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ron Minsk, (202) 395–3084.

Agency: National Oceanic and Atmospheric Administration.

Title: Reporting Requirements for a Commercial Fisheries Exemption Under Section 114 of the Marine Mammal Protection Act.

Agency Form Number: None.

OMB Approval Number: 0648–0225.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 143,988 reporting/recordkeeping hours.

Number of Respondents: 28,963.

Avg Hours Per Response: Ranges between 2.5 and 5 minutes -- averages 112 responses per respondent.

Needs and Uses: The Marine Mammal Protection Act mandates the protection of marine mammals and makes their killing, except under permit or exemption, a violation. Section 114, as amended, authorizes an exemption for commercial fishermen provided they register and report all takings. The information is required by statute and needed by the National Marine Fisheries Service to determine the impacts of commercial fishing on marine mammal populations.

Affected Public: Individuals, businesses or other for–profit institutions, small businesses or organizations.

Frequency: On occasion, annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ron Minsk, (202) 395–3084.

Agency: National Oceanic and Atmospheric Administration.

Title: Registration to Implement Temporary Emergency Sea Turtle Conservation Measures.

Agency Form Number: None.

OMB Approval Number: 0648–0267.

Type of Request: Revision of a currently approved collection.

Burden: 108 hours.

Number of Respondents: 900.

Avg Hours Per Response: 7 minutes.

Needs and Uses: The National Marine Fisheries Service has issued a final rule to amend the sea turtle protection regulations applicable to shrimp trawlers in the Southeast Atlantic and Gulf of Mexico. The regulations contain a provision for registering fishermen, if needed, when emergency conditions exist making shrimp trawling with Turtle Excluder Devices (TEDs) impracticable. The rule also contains a provision that will allow restrictions to be imposed on other fisheries that encounter sea turtles as well. The registration system will be used to identify vessels that are exempt from the TED requirement and to identify fishing vessels required to carry observers.

Affected Public: Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ron Minsk, (202) 395-3084.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Ron Minsk, OMB Desk Officer, room 3019, New Executive Office Building, Washington, DC 20503.

Dated: December 10, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92–30482 Filed 12–15–92; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business Development Agency (MBDA).

Title: Study of Awareness and Attitudes of Minority Young Adults Toward Business Ownership.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 500 hours.

Number of Respondents: 2,000.

Avg Hours Per Respondent: 15 minutes.

Needs and Uses: The national telephone survey will provide MBDA with national estimates of the awareness and attitudes of young adults toward business ownership, including comparison of four racial/ethnic groups. This will assist MBDA in designing and targeting interventions to the minorities and age cohorts who would benefit most from their assistance.

Affected Public: Individuals or households.

Frequency: One time survey.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: December 10, 1992

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92–30483 Filed 12–15–92; 8:45 am]

BILLING CODE 3510–CW–F

Foreign-Trade Zones Board

[Docket 32–91]

Foreign-Trade Zone 142—Salem, NJ, Withdrawal of Application for Subzone Status for Lignotock Auto Interior Components Plant

Notice is hereby given of the withdrawal of the application submitted by the City of Salem Port Authority, grantee of FTZ 142, requesting authority for subzone status for the automotive interior door trim panel assembly plant of Lignotock Corporation in Westampton Township, Burlington County, New Jersey. The application was filed on May 30, 1991 (56 FR 27230, 6/13/91).

The withdrawal is requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: December 8, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–30516 Filed 12–15–92; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Marine Mammals; Report to Congress

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of report availability.

SUMMARY: Section 114(l)(4) of the Marine Mammal Protection Act (MMPA) requires that NMFS develop, in consultation with the Marine Mammal Commission, the Fishery Management Councils, fishing and environmental communities, and other interested groups, a legislative proposal for governing the interactions between marine mammals and commercial fisheries. This report has been submitted to Congress and is now available for distribution to the general public.

ADDRESSES: A copy of the report is available from: Herbert W. Kaufman, Office of Protected Resources (F/PR2), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Herbert W. Kaufman, F/PR2, 301/713–2319.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act Amendments of 1988 (Pub. L. 100–711, signed November 23, 1988) established a new section 114 in the MMPA which implemented a 5-year Interim Exemption for certain incidental takings of marine mammals by commercial fishermen. The primary objective of this Interim Exemption is to provide a means for collecting reliable information about interactions between commercial fishing activities and marine mammals while allowing commercial fishing to continue. Based upon this and other relevant information, the Secretary of Commerce was directed to develop a suggested regime that would govern the incidental taking of marine mammals following the termination of the interim exemption program on October 1, 1993.

This document describes NMFS' final recommendations to Congress for a regulatory regime to govern interactions between marine mammals and commercial fishing operations. NMFS previously published and distributed for public comment draft versions of the recommendations on May 24, 1991 (56 FR 23958), and on November 20, 1991 (see 56 FR 61231, December 2, 1991). Significant comments were received on various components of the recommendations during the public review period. The majority of the comments received reflected concerns about the complexity of the recommendations and their application to a broad range of fisheries rather than focusing on those with significant marine mammal incidental take problems. The final recommendations contain substantial changes in how the regulatory program will be developed and implemented. A recurring theme of many comments from both the commercial fishing industry and the environmental community was the need to focus attention and resources on the most important problems facing marine mammal stocks. In response, the final recommendations concentrate research, monitoring, and management efforts on those fisheries responsible for significant removals of marine mammal stocks. The final recommendations contain several elements. Foremost, the recommendations maintain OSP as the fundamental precept for marine mammal protection and acknowledge

that OSP levels are still not known and will not be known for many years for most marine mammal species. Therefore, the recommendations provide for a safe level of take even if OSP is not determinable or if a population is determined to be below its OSP.

The safe level of take is determined using conservative methods, from the numbers of marine mammals of various species that could be removed from the marine ecosystem each year due to commercial fishing without either decreasing the population levels below OSP or lengthening by more than 10 percent the time needed for a depleted stock to increase back to its OSP range. The results of this determination is referred to as the "potential biological removal" (PBR).

The fisheries and marine mammal populations are prioritized such that fisheries that receive the focus of conservation efforts are those with significant takes from marine mammal populations that are depleted, threatened or endangered, or where cumulative takes from all causes equal or exceed the population's PBR.

Historical data would be used to determine which commercial fisheries interact and which do not interact with marine mammals. All vessels operating in interacting fisheries would be required to register. Vessels operating in non-interacting fisheries would not be required to register. Based on stock assessment data obtained through the stock assessment program, OSP levels would be determined for each stock, if possible. If data for making OSP determinations were not available, NMFS would make a finding that the PBR methodology would be used to determine allowable removal levels. Appropriately conservative PBRs would then be calculated for each marine mammal stock that interacts with commercial fishing operations, with the goals of limiting mortality and maintaining stocks within their OSP ranges. PBRs would be adjusted to account for special circumstances surrounding endangered, threatened or depleted stocks. The total annual removal of each stock from all sources would then be compared to the calculated PBR to determine if the stock is Class Alpha (α) or Beta (β). A stock would be categorized as Class α if total removals are equal to or greater than the PBR, of if the stock is classified as depleted, threatened or endangered. A stock would be categorized as Class β if total removals are less than the PBR, or if the stock is not classified as depleted, threatened, or endangered.

Interacting fisheries would then be categorized on the basis of the marine mammals with which they interact. Fisheries that have significant interactions with Class α stocks would be placed in Category I. Fisheries that have insignificant interactions with Class α stocks or significant interactions with Class β stocks would be placed in Category II. Fisheries that have insignificant interactions with Class β stocks would be placed in Category III.

The total PBR would then be allocated among user groups. The fishery allocation would be allocated among interacting fisheries based on socio-economic factors, biological considerations, historical take rates, past performance to reduce takes, and ability to reduce takes. Category I fisheries and Category II fisheries interacting with Class α stocks would receive a portion of the total fisheries allocation and their removals would be monitored annually to ensure that allocations are not being exceeded. If necessary, NMFS would issue emergency regulations to restrict fishing. Category III fisheries would not receive an allocation, but would be monitored every 2–3 years or at NMFS' discretion to ensure that their level of take remains insignificant and that an upgrade to Category II or I is not needed. NMFS also reserves the right to issue emergency regulations for Category III fisheries, if necessary.

A mechanism by which NMFS will ensure the soundness of its recommended plan is the application of the zero mortality rate goal. This goal will be applied to all fisheries through educational efforts, gear workshops and pertinent research efforts.

Dated: December 4, 1992.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

[FR Doc. 92–30458 Filed 12–15–92; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 1993 Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of updated mental health per diem rates.

SUMMARY: This notice provides for the updating of hospital-specific per diem rates for high volume providers and regional per diem rates for low volume providers; the updated cap per diem for high volume providers; and the beneficiary per diem cost-share amount for low volume providers to be used for FY 1993 under the CHAMPUS Mental Health Per Diem Payment System.

EFFECTIVE DATE: The rates contained in this notice are effective for services occurring on or after October 1, 1992.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, CO 80045–6900.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238. The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Stan Regensberg, Program Development Branch, OCHAMPUS, telephone (303) 361–1342. To obtain copies of this document, see the **"ADDRESSES"** section above. Questions regarding payment of specific claims under the CHAMPUS Mental Health Per Diem Payment System should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on September 6, 1988, (52 FR 34285) set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. Included in this final rule were provisions for updating reimbursement rates for each federal fiscal year. As stated in the final rule, each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System. In the **Federal Register** on September 1, 1992, (57 FR 39746), Medicare has recommended to Congress an update factor of 4.2 percent for federal fiscal year 1993 for hospitals and units excluded from the prospective payment system. CHAMPUS will adopt this update factor for FY 1993 as the final update factor. Hospitals and units with hospital-specific rates (hospitals and units with high CHAMPUS volume) will have their FY 1992 CHAMPUS per diem rates updated by 4.2 percent for FY 1993.

The following reflect an update of 4.2 percent.

REGIONAL SPECIFIC RATES FOR PSYCHIATRIC HOSPITALS AND UNITS WITH LOW CHAMPUS VOLUME

United States Census Region	Rate*
Northeast:	

REGIONAL SPECIFIC RATES FOR PSYCHIATRIC HOSPITALS AND UNITS WITH LOW CHAMPUS VOLUME—Continued

United States Census Region	Rate*
New England	$475
Mid-Atlantic	$454
Midwest:	
East North Central	$393
West North Central	$371
South:	
South Atlantic	$469
East South Central	$508
West South Central	$427
West:	
Mountain	$426
Pacific	$503

*The wage portion of the rate, subject to the area wage adjustment, is 71.40 percent.

BENEFICIARY COST-SHARE: Beneficiary cost-share (other then dependents of active duty members) for care paid on the basis of a regional per diem rate is the lower of $126 per day or 25 percent of the hospital billed charges effective for services rendered on or after October 1, 1992.

CAP AMOUNT: Cap amount for hospitals and units with high CHAMPUS volume is $701 per day.

Dated: December 10, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–30447 Filed 12–15–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Notice of Procedural Changes In DOD Rate Acquisition Programs

AGENCY: Military Traffic Management Command.

ACTION: Notice.

SUMMARY: Military Traffic Management Command (MTMC), for the Department of Defense (D)D, intends to modify the procedures used to acquire rates and charges from the motor carrier industry for driveaway and towaway service. This modification is the issuance of a rules publication designed to standardize and simplify the procurement of rates and services to move military traffic in driveaway or towaway service, under 49 U.S.C. 10721. This publication, MTMC Driveaway-Towaway Rules Publication No. 2, is available in draft form for public review and comment and may be obtained from Military Traffic Management Command, ATTN: MTIN–NG, room 621, 5611 Columbia Pike, Falls Church, VA 22041–5050 or telephone (703) 756–1585. Written comments concerning this proposed publication will be considered, if received at the same address not later than January 25, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Blaize J. Guzzardo, Headquarters, Military Traffic Management Command, ATTN: MTIN–NG, 5611 Columbia Pike, Falls Church, VA 22041–5050, telephone (703) 756–1585.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–30449 Filed 12–15–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.'s 137–002 and 8144–003]

Pacific Gas and Electric Company Amador County, CA; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings

December 10, 1992.

The Federal Energy Regulatory Commission (FERC) has received an application for relicense of the existing Mokelumne River Project No. 137, and an application for license to construct the proposed Devil's Nose/Cross County Project No. 8144. Both hydropower projects would be located principally on the North Fork of the Mokelumne River. The Mokelumne Project is located in Alpine, Amador, and Calaveras Counties, California, and the Devil's Nose Project would be located in Amador and Calaveras Counties, California.

The FERC staff has determined that licensing these projects would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an Environmental Impact Statement (EIS) on the two hydroelectric projects in accordance with the National Environmental Policy Act.

The Forest Service, Bureau of Land Management, and Corp of Engineers will be cooperating agencies in the preparation of the EIS.

The EIS will objectively consider both site specific and cumulative environmental impacts of the project and reasonable alternatives, and will include an economic, financial and engineering analysis.

A draft EIS will be issued and circulated for review by all the interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in a final EIS. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

Scoping Meetings

Two scoping meetings will be conducted on Thursday, January 14, 1993. A scoping meeting oriented toward resource agencies will be conducted from 9 a.m. to 12 p.m., in Room West 21–42 at the Cottage Way Federal Building, 2800 Cottage Way, Sacramento, California. The building is located between Fulton Avenue and Morse Boulevard. A scoping meeting oriented toward the public will be conducted from 7 p.m. to 10 p.m., in the Civic Center at the City Hall, 33 Broadway, Jackson, California. City Hall is located at the corner of Highways 49 and 88.

Interested individuals, organizations, and agencies are invited to attend either or both meetings and assist the staff in identifying the scope of environmental issues that should be analyzed in the EIS.

To help focus discussions at the meetings, a preliminary scoping document outlining subject areas to be addressed in the EIS will be mailed to agencies and interested individuals on the FERC mailing list. Copies of the scoping document will also be available at the scoping meetings.

Objectives

At the scoping meetings the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the planned EIS; (2) determine the relative depth of analysis for issues to be addressed in the EIS; (3) identify resource issues that are not important and do not require detailed analysis; (4) solicit from the meeting participants all available information, especially quantified data, on the resources at issue; and (5) encourage statements from experts and the public on issues that should be analyzed in the EIS, including point of view in opposition to, or in support of, the staff's preliminary views

Procedures

The meetings will be recorded by a court reporter and all statements (oral and written) thereby become a part of the formal record of the Commission proceedings on the Mokelumne Project and on the Devil's Nose Project. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and assist the staff in

defining and clarifying the issues to be addressed in the EIS.

Participants wishing to make oral comments at the public meeting are asked to keep them to five minutes to allow everyone the opportunity to speak.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, until February 15, 1993.

All written correspondence should clearly show one or both of the following caption on the first page: Mokelumne River Project No. 137 or Devil's Nose/Cross County project No. 8144.

Further, intervenors—those on the Commission's service list (parties)—are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission, to serve a copy of the document on each person whose name appears on the official service list.

If you have any questions please contact Thomas Dean at (202) 219–2778.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–30448 Filed 12–15–92; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50751; FRL–4168–7]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

62719–EUP–16. Issuance. DowElanco, Quad IV, 9002 Purdue Rd., Indianapolis, IN 46268–1189. This experimental use permit allows the use of 119.8 pounds of the herbicide N-(2,6-difluorophenyl)-5-methyl-1,2,4-triazolo-[1,5a]-pyrimidine-2-sulfonamide on 1,765 acres of soybeans to evaluate the control of broadleaf weeds. The program is authorized in the States of Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from September 4, 1992 to September 4, 1994. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (Joanne I. Miller, PM 23, Rm. 237, CM #2, (703–305–7830))

62719–EUP–17. Issuance. DowElanco, Quad IV, 9002 Purdue Rd., Indianapolis, IN 46268–1189. This experimental use permit allows the use of 272.77 pounds of the herbicide N-(2,6-difluorophenyl)-5-methyl-1,2,4-triazolo-[1,5a]-pyrimidine-2-sulfonamide and 3,709.64 pounds of the herbicide trifluralin on 3,879 acres of soybeans to evaluate the control of broadleaf weeds. The program is authorized in the States of Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from September 4, 1992 to September 4, 1994. A temporary tolerance for residues of the active ingredients in or on soybeans has been established. (Joanne I. Miller, PM 23, Rm. 237, CM #2, (703–305–7830))

Persons wishing to review these experimental use permits are referred to the designated product manager. Inquires concerning these permits should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

Dated: November 25, 1992.

Lawrence E. Cullen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–30295 Filed 12–15–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30345; FRL–4176–8]

Rohm and Haas Company; Application To Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Kathon 287T, containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 15, 1993.

ADDRESSES: By mail submit comments identified by the document control number [OPP–30345] and the file symbol (707–EEU) to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Attention PM 31, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 31, John Lee, Rm. 258, CM #2, (703–305–5675).

SUPPLEMENTARY INFORMATION: EPA received an application from Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105, to register the product Kathon 287T (File Symbol 707–EEU), a technical microbiocide containing the active ingredient (4,5-dichloro-2-n-octyl-3 (2*H*)-isothiazolone at 93.5 percent; an ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. This product is used for the formulation of industrial mildewcides. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (FOD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: December 2, 1992.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–30511 Filed 12–15–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–240101; FRL–4177–8]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 23 States and Puerto Rico. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**.

DATES: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Edith Minor, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5978.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in July through August of 1992. Receipts-of-State registrations will be published periodically. Of the following registrations, 11 involve a changed-use pattern (CUP). The term "changed use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

1. *EPA SLN No. AL 92 0006.* E.I. Du Pont DeNemours and Co., Inc. Registration is for Nicosulfuron to be used on pop and field corn to control weeds. August 25, 1992.

Arizona

2. *EPA SLN No. AZ 92 0004.* Steve Pavich and Sons. Registration is for Carbon Dioxide to be used on table grapes to control black widow spider. July 22, 1992.

3. *EPA SLN No. AZ 92 0005.* Phil Hornung. Registration is for Thiram to be used on onion seeds to control seed decay, damping off and seedling blight. July 22, 1992.

4. *EPA SLN No. AZ 92 0006.* Gowan Co. Registration is for Permethrin to be used on alfalfa to control cutworm. July 22, 1992.

5. *EPA SLN No. AZ 92 0007.* American Cyanamid Co. Registration is for Pendimethalin to be used on jojoba to control pigweed, jungle rick, and johnsongrass. August 27, 1992.

California

6. *EPA SLN No. CA 92 0010.* Rogers NK Seed Co. Registration is for Sodium Hypochlorite to be used on carrot, pepper, and tomato seeds to control bacteria blight and spot. July 9, 1992.

7. *EPA SLN No. CA 92 0011.* California Grain and Feed Assn. Registration is for Propargite to be used on corn to control two-spotted spider mites. July 9, 1992.

8. *EPA SLN No. CA 92 0012.* James H. Welton. Registration is for Captan 50 WP to be used on greenhouse-grown cactus to control stem rot. July 9, 1992.

9. *EPA SLN No. CA 92 0013.* Ciba-Geigy Corp. Registration is for Banner to be used on chrysanthemums to control white rust. July 9, 1992.

10. *EPA SLN No. CA 92 0014.* Ciba-Geigy Corp. Registration is for Fenoxycarb to be used in crop ornamentals and non-bearing nursery stock to control fire ants. August 10, 1992.

11. *EPA SLN No. CA 92 0017.* Drexel Chemical Co. Registration is for Sodium Chlorate to be used on fallow ground to control weeds. August 17, 1992.

Delaware

12. *EPA SLN No. DE 92 0002.* Valent U.S.A. Corp. Registration is for Methamidophos to be used on tomatoes to control insects. July 28, 1992.

Florida

13. *EPA SLN No. FL 92 0007.* DowElanco. Registration is for Chlorpyrifos to be used peppers to control beet armyworms. August 11, 1992.

Georgia

14. *EPA SLN No. GA 92 0003.* Ciba-Geigy Corp. Registration is for Profenofos to be used on cotton to control armyworm and other insects. July 22, 1992.

15. *EPA SLN No. GA 92 0004.* ICI Americas, Inc. Registration is for Fonofos to be used on corn, sweet potatoes, and peanuts to control beetle larvae. August 11, 1992.

Idaho

16. *EPA SLN No. ID 92 0009.* Platte Chemical Co., Inc. Registration is for Methyl Parathion to be used on canola and rapeseed to control insects. July 8, 1992.

Louisiana

17. *EPA SLN No. LA 92 0010.* Ciba-Geigy Corp. Registration is for

Profenofos to be used on cotton to control tobacco budworms and cotton ballworms. August 7, 1992

Maine

18. *EPA SLN No. ME 92 0004.* Platte Chemical Co., Inc. Registration is for Diazinon to be used on balsam fir to control twig aphids and gall midge. July 31, 1992.

19. *EPA SLN No. ME 92 0005.* Platte Chemical Co., Inc. Registration is for Diazinon to be used on balsam fir to control spruce budworm. July 27, 1992.

Michigan

20. *EPA SLN No. MI 92 0002.* U.S. Dept. of Agriculture. Registration is for Compound DRC-1339 to be used in roosting places to control starlings. July 5, 1992.

21. *EPA SLN No. MI 92 0003.* FMC Corp. Registration is for Carbofuran to be used on strawberries to control root weevils. August 24, 1992.

Minnesota

22. *EPA SLN No. MN 92 0002.* Ciba-Geigy Corp. Registration is for Propiconazole to be used on american elms and oaks to control oak wilt. July 14, 1992.

Montana

23. *EPA SLN No. MT 92 0006.* Ciba-Geigy Corp. Registration is for Triforene to be used on cherries to control leafspot and brown rot. July 7, 1992.

New Mexico

24. *EPA SLN No. NM 92 0002.* E.I. Du Pont DeNemours and Co., Inc. Registration is for Oxamyl to be used on non-bell peppers to control pepper weevils. August 24, 1992.

North Carolina

25. *EPA SLN No. NC 92 0009.* ICI Americas, Inc. Registration is for Fonofos to be used sweet potatoes to control beetle larvae. August 10, 1992.

26. *EPA SLN No. NC 92 0010.* Haco, Inc. Registration is for Diphacinone to be used in commercial nurseries, xmas tree farms, plantations, and orchards to control pine and meadow voles. August 10, 1992.

27. *EPA SLN No. NC 92 0011.* Miles, Inc. Registration is for Di-Syston 15% Gran. to be used on peanuts to control mites, aphids, and thrips. August 11, 1992.

North Dakota

28. *EPA SLN No. ND 92 0001.* U.S. Dept. of Agriculture. Registration is for Compound DRC-1339 to be used in sunflower fields and staging areas to control starlings and black birds. August 17, 1992.

Oklahoma

29. *EPA SLN No. OK 92 0011.* E.I. Du Pont DeNemours and Co., Inc. Registration is for Finesse and Lexone to be used on winter wheat to control ryegrass. August 19, 1992.

Oregon

30. *EPA SLN No. OR 92 0002.* ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control weeds. August 14, 1992.

31. *EPA SLN No. OR 92 0003.* E.I. du Pont deNemours and Co., Inc. Registration is for Terbacil to be used on alfalfa to control broadleaf and grassy weeds. August 9, 1992.

32. *EPA SLN No. OR 92 0004.* Unocal Corp. Registration is for Wilthin to be used on apples to control apple blossoms. August 12, 1992.

33. *EPA SLN No. OR 92 0007.* Platte Chemical Co., Inc. Registration is for Terbacil to be used on conifers and xmas trees to control weed and brush. August 13, 1992.

Pennsylvania

34. *EPA SLN No. PA 92 0003.* E. I. du Pont deNemours and Co., Inc. Registration is for Methomyl to be used on nectarines and peaches to control thrips. July 13, 1992.

35. *EPA SLN No. PA 92 0004.* Rohm & Haas Co. Registration is for Dicofol to be used on raspberries and blackberries to control mites. August 24, 1992.

Puerto Rico

36. *EPA SLN No. PR 92 0002.* Hiram Mercado Perez. Registration is for Ethoprop to be used on pineapple to control symphylans. July 22, 1992.

South Dakota

37. *EPA SLN No. SD 92 0008.* FMC Corp. Registration is for Carbofuran to be used on wheat, barley and oats to control grasshoppers. July 8, 1992.

38. *EPA SLN No. SD 92 0009.* Sandoz Agro, Inc. Registration is for Dicamba to be used on millet to control weeds. July 28, 1992.

Texas

39. *EPA SLN No. TX 92 0021.* U.S. Dept. of Agriculture. Registration is for Linuron to be used on parsley to control weeds. July 5, 1992.

40. *EPA SLN No. TX 92 0022.* ISK Biotech Corp. Registration is for Chlorothalonil to be used on peaches to control peach scab. July 31, 1992.

41. *EPA SLN No. TX 92 0023.* E. I. du Pont deNemours and Co., Inc. Registration is for Finesse and Lexone to be used on winter wheat to control grass. August 18, 1992.

42. *EPA SLN No. TX 92 0024.* AMVAC Chemical Corp. Registration is for PCNB 75% Wettable Powder to be used on peanuts to control southern blight and white mold. August 25, 1992.

Vermont

43. *EPA SLN No. VT 92 0001.* Platte Chemical Co., Inc. Registration is for Diazinon to be used on balsam fir plantings to control gall midge and twin aphid. July 23, 1992.

44. *EPA SLN No. VT 92 0002.* Rhone-Poulenc AG Co. Registration is for Thiodicarb to be used on sweet corn to control european corn borer and corn ear worms. July 23, 1992.

Washington

45. *EPA SLN No. WA 92 0032.* Uniroyal Chemical Co., Inc. Registration is for Propargite to be used on potatoes to control spider mite. July 20, 1992.

46. *EPA SLN No. WA 92 0033.* U.C.B. Chemicals Corp. Registration is for Ziram Granuflo to be used on pears to control storage rots. August 18, 1992.

47. *EPA SLN No. WA 92 0034.* American Cyanamid Co. Registration is for Pendimethalin to be used on alfalfa to control weeds (dodder). August 21, 1992.

48. *EPA SLN No. WA 92 0035.* ICI Americas, Inc. Registration is for Napropamide to be used on cranberries to control silver leaf, aster, and clover. August 31, 1992.

49. *EPA SLN No. WA 92 0036.* Uniroyal Chemical Co., Inc. Registration is for Propargite to be used and apples to control mites. August 31, 1992.

Wyoming

50. *EPA SLN No. WY 92 0005.* American Cyanamid Co. Registration is for Pendimethalin to be used on alfalfa to control weeds (dodder). July 23, 1992.

Authority: Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136).

Dated: November 25, 1992.

Lawrence E. Culleen,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–30299 Filed 12–15–92; 8:45 am]

BILLING CODE 6560–50–F

[OPPT–51811; FRL–4180–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires

any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 20 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93–107, February 1, 1993.

P 93–108, 93–109, 93–110, 93–111, 93–112, 93–113, 93–114, 93–115, 93–116, 93–117, February 3, 1993.

P 93–118, 93–119, 93–120, 93–121, February 6, 1993.

P 93–122, 93–123, 93–124, 93–125, 93–126, February 7, 1993.

Written comments by:

P 93–107, January 2, 1993.

P 93–108, 93–109, 93–110, 93–111, 93–112, 93–113, 93–114, 93–115, 93–116, 93–117, January 4, 1993.

P 93–118, 93–119, 93–120, 93–121, January 7, 1993.

P 93–122, 93–123, 93–124, 93–125, 93–126, January 8, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPT–51811]" and the specific number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC, 20460 (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93–107

Manufacturer. American Colloid Company.

Chemical. (S) Humates (humic acid).

Use/Production. (S) Soil amendment. Prod. range: 250,000–750,000 ky/yr.

P 93–108

Manufacturer. E.I. Du Pont De Nemours and Company.

Chemical. (G) Polyether acetate.

Use/Production. (G) Isolated intermediate in the manufacture of a polyether glycol. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 25,000 mg/kg species (rat). Eye irritation: slight species (rabbit).

P 93–109

Importer. Mitsui Petrochemicals(America), Ltd.

Chemical. (G) Modified (stylene-olefin copolymer).

Use/Import. (S) Primer for automative polypropylene and ethylene-propylene-rubber. Import range: Confidential.

P 93–110

Manufacturer. Confidential.

Chemical. (G) Vinylidene chloride acrylate ester polymer.

Use/Production. (G) Formulation of protective coatings. Prod. range: Confidential.

P 93–111

Manufacturer. E.I. Du Pont De Nemours and Company.

Chemical. (G) Polyimide.

Use/Production. (G) Open nondispersive use. Prod. range: Confidential.

Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 93–112

Manufacturer. Confidential.

Chemical. (G) Calcium based thickener.

Use/Production. (S) Grease thickener. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: negative.

P 93–113

Manufacturer. Confidential.

Chemical. (G) Substituted alkanoic acid derivative.

Use/Production. (G) Raw material used in commercial manufacturing process. Prod. range: Confidential.

P 93–114

Manufacturer. Confidential.

Chemical. (G) Substituted alkanoic acid derivative.

Use/Production. (G) Raw material used in commercial manufacturing process. Prod. range: Confidential.

P 93–115

Manufacturer. Confidential.

Chemical. (G) Substitutes alkanoic acid derivative.

Use/Production. (G) Raw material used in commercial manufacturing process. Prod. range: Confidential.

P 93–116

Manufacturer. Confidential.

Chemical. (G) Substituted heteromonocyclic polymer.

Use/Production. (G) Resin used for industrial applications. Prod. range: Confidential.

P 93–117

Importer. EMS-American Grilon, Inc.

Chemical. (S) Copolyester of terephthalic acid, isophthalic acid, dodecanedioic acid and 1,4-butanediol.

Use/Import. (S) Hot melt for adhesion of textile substrates. Import range: Confidential.

P 93–118

Importer. Basf Corporation.

Chemical. (G) Catonic modified acrylic ester polymer.

Use/Import. (S) Sizing agent. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,388 mg/kg species (rat). Mutagenicity: positive.

P 93–119

Importer. Confidential.

Chemical. (G) Urea-propenamide adduct.

Use/Import. (G) Photopolymer to printing plate without lead. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,388 mg/kg species (rat).

P 93–120

Importer. Confidential.

Chemical. (G) Polyester polyurethane acrylate oligomer.

Use/Import. (S) Outer primary coating resin for optical fibers. Import range: Confidential.

P 93–121

Importer. EMS-American Grilon.

Chemical. (G) Polyetherheteramide, based on nylon 6 monomer caprolactam, =nylon 6 monmomer.

Use/Import. (S) Basic polymers for compounding to granules for extrusion and injection molding. Import range: Confidential.

P 93–122

Manufacturer. Confidential.

Chemical. (G) Modified acylic polymer.

Use/Production. (S) Coating, sealant, binder, adhesive and flame retardant. Prod. range: Confidential.

P 93–123

Manufacturer. Confidential.

Chemical. (G) Modified acrylic polymer.

Use/Production. (S) Coating, sealant, binder, adhesive, and flame retardant. Prod. range: Confidential.

P 93–124

Manufacturer. Confidential.

Chemical. (G) Modified acylic polymer.

Use/Production. (S) Coating, sealant, binder, adhesive and flame retardant. Prod. range: Confidential.

P 93–125

Manufacturer. Confidential.

Chemical. (S) A phthalic anhydride, maleic anhydride, tall oil fatty acids, neopentyl glycol, ethylene glycol, andpentaerythritol polyester reacted with styrene andmethacrylate acid.

Use/Production. (S) Styrene and acrylic-modified polyester resin used as a pigmented protective coating. Prod. range: 200,000–300,000 kg/yr.

Toxicity Data. Skin sensitization: positive.

P 93–126

Manufacturer. Ashland Chemical, Inc.

Chemical. (G) 2,2'-(Substituted) bisoxazoline.

Use/Production. (G) Thermoset resin component (open, nondispersive use). Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3.55 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Eye irritation: slight. Skin irritation: slight. Mutagenicity: positive. Skin sensitization: positive.

Dated: December 3, 1992.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 92–30432 Filed 12–15–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination to Provide Assistance; Citizens State Bank

Pursuant to the provisions of section 13(c)(8) of the Federal Deposit Insurance Act (the FDI Act) (12 U.S.C. 1823(c)(8), as amended by the Federal Deposit Insurance Corporation Improvement Act of 1991), notice is hereby given that at its closed meeting held at 10:02 a.m. on October 20, 1992, the Federal Deposit Insurance Corporation's (the Corporation's) Board of Directors determined to provide assistance to Citizens State Bank, Princeton, Texas (Citizens), before the appointment of a conservator or receiver.

Subject to the least-cost provisions of section 13(c)(4) of the FDI Act (12 U.S.C. 1823(c)(4)), the Corporation, in compliance with section 13(c)(8), determined to provide direct financial assistance after: (1) The Corporation determined that grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless Citizens' capital levels are increased; (2) the Corporation determined that it is unlikely that Citizens can meet all currently applicable capital standards without assistance; (3) based on information currently available to the Corporation, the Corporation determined that Citizens' management, as reconstituted in the course of the transaction, is competent and has complied with applicable laws, rules, and supervisory directives and orders; and (4) based on information currently available to the Corporation, the Corporation determined that Citizens' management, as reconstituted in the course of the transaction, has not engaged in any insider dealing, speculative practice or other abusive activity. The determinations described under (3) and (4) above are based on information that could be obtained in the time available. The determinations shall not prejudice future action if subsequent information indicates that such action is appropriate.

Additional information on this notice can be obtained by contacting Janet V. Norcom, Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429. Telephone: (202) 898–3607.

By direction of the Board of Directors.

Dated this 20th day of October, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–30493 Filed 12–15–92; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before February 16, 1993.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2624.

Type: Extension of 3067–0123.

Title: State and Local Emergency Operations Plans.

Abstract: State and local emergency operations plans (EOP's) are necessary to facilitate coordinated and effective response and recovery from major natural, technological, and attack-related hazards. Once an EOP is developed, it must be updated once every 4 years. State and local jurisdictions develop and update plans using multihazard emergency operations planning guidance found in FEMA Civil Preparedness Guides, specifically CPG 1–8, *Guide for the Development of State and Local Emergency Operations Plans,* and CPG 1–8A, Guide for the Review of State and Local Emergency Operations Plans.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 402,780 hours.

Number of Respondents: 959.

Estimated Average Burden Time per Response: 420 hours.

Frequency of Response: Other. During the update cycle, plans will be submitted once every 4 years.

Dated: December 9, 1992.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 92–30489 Filed 12–15–92; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Maryland Port Administration/ Mediterranean; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the

Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comment on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200408–002.

Title: Maryland Port Administration/ Mediterranean Shipping Terminal Agreement.

Parties: Maryland Port Administration ("Port") Mediterranean Shipping Company, S.A. ("MSC")

Synopsis: The amendment provides for a $25.00 special incentive credit for loaded MSC mini-landbridge containers handled at the Port's Seagirt Marine Terminal.

Agreement No.: 224–200446–001.

Title: Port of New Orleans/Coastal Cargo Company, Inc. Leasing Agreement.

Parties: The Port of New Orleans, Coastal Cargo Company, Inc.

Synopsis: The modification extends the leasing period of the basic Agreement on a month to month basis in accordance with the provisions of the Louisiana Civil Code Article 2689.

Agreement No.: 224–200706.

Title: Port of Palm Beach/Inter-Call Communications, Inc., Lease Agreement.

Parties: Port of Palm Beach ("Port") Inter-Call Communications, Inc.

Synopsis: The Agreement provides for a leasing arrangement between the two parties for the purpose of leasing office space, with parking spaces, in the Maritime Office Building located at the Port.

Dated: December 10, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–30443 Filed 12–15–92; 8:45 am]

BILLING CODE 6730–01–M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Administration, GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve information collection, Zero Burden Information Collection Reports. GSA proposes to use a single, general control number for information collections that impose no burden upon the public.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503 and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th and F Street NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

a. Background

In November 1990 GSA submitted a Request for OMB Review of Zero Burden Information Collection Reports.

b. Purpose

The information collection request submitted for approval consists of reports which do not impose collection burdens upon the public. These collections require information which is already available to the public at large or that is routinely exchanged by firms during the normal course of business. A general control number for these collections decreases the amount of paperwork generated by the approval process. Since May 10, 1991, GSA has published one rule that falls under Information collection 3090–2050. The rule was published at 56 FR 29442, June 27, 1991, titled: Implementation of Public Law 99–506. The effective date was July 8, 1991. Annual Reporting Burden: None.

FOR FURTHER INFORMATION CONTACT: Mary Cunningham, Office of Administration (202) 501–1659.

Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), room 7122, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: November 30. 1992

Emily C. Karam,

Director, Information Management Division

[FR Doc. 92–30451 Filed 12–15–92; 8:45 am]

BILLING CODE 6820–BR–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N–0486]

Pfizer Pharmaceuticals Inc., et al.; Withdrawal of Approval of 45 Abbreviated Antibiotic Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 45 abbreviated antibiotic drug applications (AADA's). The holders of the AADA's notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: January 15, 1992.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8038.

SUPPLEMENTARY INFORMATION: The holders of the AADA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

AADA no.	Drug	Applicant
60–475	Neobiotic (neomycin sulfate) Tablets, 350 milligrams (mg)	Pfizer Pharmaceuticals Inc., 235 East 42d St., New York, NY 10017–5755.
60–668	Chloramphenicol Non-Sterile Bulk and Micronized Chloramphenicol	Boehringer Mannheim GmbH, Sandhofer Strasse 116, Postfach 310120, 6800 Mannheim 31, West Germany.
60–688	Otoreid-HC Ear Drops (Neomycin Sulfate-Polymyxin B Sulfate- Hydrocortisone-Diperodon Hydrochloride)	Solvay Pharmaceuticals, 901 Sawyer Rd., Marietta, GA 30062.
60–696	Penicillin G Potassium Ophthalmic Ointment	Bristol-Myers Squibb, Pharmaceutical Research Institute, P.O. Box 4000, Princeton, NJ 08543–4000.

AADA no.	Drug	Applicant
61–116	Ampicillin Trihydrate	Bristol-Myers Squibb, Co.,Pharmaceutical Group Technical Operations, P.O. Box 4755, Syracuse, NY 13221–4755.
61–118	Cloxacillin Sodium	Do.
61–119	Dicloxacillin Sodium	Do.
61–346	Methicillin Sodium, Sterile	Do.
61–347	Oxacillin Sodium, Sterile	Do.
61–570	Hetacillin Potassium, Sterile	Do.
61–604	Ampicillin Sodium, Sterile	Do.
61–593	Kanamycin, Sterile	Do.
61–759	Cephapirin Sodium	Do.
61–776	Tetracycline Hydrochloride (non-sterile bulk)	Rhone-Poulenc Rorer, 500 Virginia Dr., Fort Washington, PA 19034.
61–780	Celospor (cephacetrile sodium)	Ciba-Geigy Corp., Summit, NJ 07901.
61–791	Pfizer E (erythromycin stearate) Tablets	Pfizer Pharmaceuticals Inc.
61–795	Oxacillin Sodium, Sterile	Bristol-Myers Squibb Co.
61–796	Oxacillin Sodium	Do.
61–797	Methicillin Sodium	Do.
61–816	Otobione Otic Suspension	Shering-Plough Research Institute, 2000 Galloping Hill Rd., Kenilworth, NJ 07033–0530.
61–832	Amoxicillin Trihydrate	Bristol-Myers Squibb Co.
61–924	Dicloxacillin Sodium, Sterile	Do.
61–963	Pen V Acid	Do.
61–983	Nafcillin Sodium, Sterile	Do.
62–001	Penicillin V Potassium Tablets USP, 250 mg and 500 mg	Parke-Davis, 201 Tabor Rd., Morris Plains, NJ 07950.
62–002	Penicillin V Potassium for Oral Solution USP, 125 mg/5 milliliters (mL) and 250 mg/5 mL	Do.
62–003	Penicillin G Potassium for Injection USP, 1,000,000 and 5,000,000 units per vial	Do.
62-030	Ampicillin for Oral Suspension, 125 mg/5 mL and 250 mg/5 mL	Do.
62–041	Ampicillin Capsules, 250 mg and 500 mg	Do.
62–107	Amoxicillin Capsules, 250 mg and 500 mg	Do.
62–127	Amoxicillin for Oral Suspension	Do.
62–173	Neomycin Sulfate Tablets USP, 350 mg	Roxane Laboratories, P.O. Box 16532, Columbus, OH 43216–6532.
62–217	Ampicillin Trihydrate, Sterile	Bristol-Myers Squibb Co.
62–232	Pen G Benzathine, Sterile	Do.
62–250	Pen G Procaine, Sterile	Do.
62–296	Oxytetracycline Hydrochloride (non-sterile bulk)	Rhone-Poulenc Rorer
62–316	Ceforanide Free Acid, Sterile	Bristol-Myers Squibb Co.
62–332	Tetracycline Hydrochloride Capsules USP, 250 mg and 500 mg	Warner Chilcott Laboratories, 201 Tabor Rd., Morris Plains, NJ 07950.
62–461	Cephalothin Sodium, Sterile	Bristol-Myers Squibb Co.
62–486	Pen G Benzathine, Sterile	Do.
62–487	Nafcillin Sodium, Sterile	Do.
62–510	Rocephin (ceftriaxone sodium) Sterile Vials	Roche Pharmaceuticals, 340 Kingsland St., Nutley, NJ 07110–1199.
62–604	Sterile Erythromycin Lactobionate	Lyphomed, 2045 North Cornell Ave., Melrose Park, IL 60160–1002.
62–723	Sterile Cephapirin Sodium, USP	Do.
62–863	Cephalexin Tablets, 250 mg, 500 mg, and 1,000 mg	Vitarine Pharmaceuticals, Inc., 227–15 North Conduit Ave., Springfield Gardens, NY 11413.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the AADA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective January 15, 1992.

Dated: December 4, 1992.

D. B. Burlington,

Acting Director, Center for Drug Evaluation and Research.

[FR Doc. 92–30491 Filed 12–15–92; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(G–910–G3–0006–4210–04; NMNM 83264)]

Issuance of Exchange Conveyance Document of Public Land in San Miguel County; NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 400.00 acres of public land out of Federal ownership. This action also reconveys 400.00 acres of land to Federal ownership.

FOR FURTHER INFORMATION CONTACT: Taos Resource Area Manager, 224 Montevideo Plaza, Cruz Alta Road, Taos, New Mexico 87571.

SUPPLEMENTARY INFORMATION: The United States issued an exchange conveyance document to the Church of Spiritual Technology, a California corporation, on August 24, 1992, for the surface estate in the following described land in San Miguel County, New Mexico, pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716).

New Mexico Principal Meridian

T. 15 N., R. 22 E.,
Sec. 14, SE¼NE¼;
Sec. 22, NW¼NE¼;
Sec. 23, SW¼NW¼;
Sec. 27, W½NE¼, SE¼NE¼, and NW¼.
Containing 400.00 acres.

In exchange for the land described above, the Church of Spiritual Technology conveyed to the United States the surface estate in the following described land located in San Miguel County, New Mexico:

New Mexico Principal Meridian

T. 17 N., R. 23 E.,
Sec. 14, SE¼SW¼;
Sec. 23, E½NW¼ and SW¼NW¼;
Sec. 27, S½SW¼;
Sec. 34, E½NW¼, NE¼SW¼, and NW¼SE¼.
Containing 400.00 acres.

The purpose of the exchange was to acquire land offering high values for wildlife habitat and recreation and also to consolidate holdings within the Sabinoso Wilderness Study Area. The exchange was consistent with the Taos Resource Management Plan approved October 1988.

The values of the Federal public land and the non-Federal land in the exchange were appraised at $28,000.00. The public interest was served through the completion of this exchange.

Dated: November 30, 1992.

Monte G. Jordan,

Associate State Director.

[FR Doc. 92-30456 Filed 12-15-92; 8:45 am]

BILLING CODE 4310-FB-M

[OG-910-G3-0005-4210-04; NMNM 83254]]

Issuance of Exchange Conveyance Document of Public Land in Taos County; NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 53.21 acres of public land out of Federal ownership. This action also reconveys 50.00 acres of land to Federal ownership.

FOR FURTHER INFORMATION CONTACT: Taos Resource Area Manager, 224 Montevideo Plaza, Cruz Alta Road, Taos, New Mexico 87571.

SUPPLEMENTARY INFORMATION: The United States issued an exchange conveyance document to Louis Menyhert on August 24, 1992, for the surface estate in the following described land in Taos County, New Mexico, pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716).

New Mexico Principal Meridian

T. 28 N., R. 10 E.,
Sec. 30, lots 4, 9, and 10.
Containing 53.21 acres.

In exchange for the land described above, Louis Menyhert conveyed to the United States the surface estate in the following described land located in Taos County, New Mexico:

New Mexico Principal Meridian

T. 29 N., R. 9 E.,
Sec. 13, S½SE¼SW¼;
Sec. 23, N½NE¼NW¼,
W½SE¼NE¼NW¼, and
E½SW¼NE¼NW¼.
Containing 50.00 acres.

The purpose of the exchange was to provide access to private land and increase the public land holding within an area designated for retention in the Taos Resource Area Management Plan. The acquired land offers high public values for recreation and wildlife habitat.

The values of the Federal public land and the non-Federal land in the exchange were appraised at $15,300.00 and $15,500.00, respectfully. The public interest was served through the completion of this exchange.

Dated: November 30, 1992.

Monte G. Jordan,

Associate State Director.

[FR Doc. 92-30455 Filed 12-15-92; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

Final Supplemental Environmental Impact Statement; Yosemite National Park Concession Services Plan

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, and specifically to the regulations promulgated by the Council on Environmental Quality at 40 CFR 1505.2, the Department of the Interior, National Park Service (NPS) has prepared a Record of Decision on the Final Concession Services Plan/Supplemental Environmental Impact Statement (EIS) to the 1980 Final General Management Plan/Environmental Impact Statement (GMP/EIS) for Yosemite National Park, Mariposa, Madera, and Tuolumne Counties, California.

The NPS will amend the 1980 Yosemite National Park General Management Plan as it pertains to concession services offered in the park in accordance with the proposal set forth as Alternative B in the Final Concession Services Plan/Supplemental Environmental Impact Statement issued in September, 1992 (57 FR 41952). The Draft Plan/Supplemental Environmental Impact Statement was issued in December, 1991 (56 FR 67097).

Copies of the Record of Decision may be obtained from either the Superintendent, Yosemite National Park, P.O. Box 577, Yosemite National Park, CA 95389, or the National Park Service, Western Regional Office, Division of Planning, Grants and Environmental Quality, 600 Harrison Street, suite 600, San Francisco, CA 94107-1372.

Dated: December 4, 1992.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 92-30494 Filed 12-15-92; 8:45 am]

BILLING CODE 4310-70-M

Minerals Management Service

Outer Continental Shelf (OCS) Advisory Board, Scientific Committee (SC); Vacancies and Request for Nominations

The Minerals Management Service (MMS) is seeking interested and qualified individuals to serve on its OCS Advisory Board SC during the period of May 2, 1993, through May 1, 1995. The initial 2-year term may be renewable for up to an additional 4 years. The SC is chartered under the Federal Advisory Committee Act to advise the Director of the MMS on the appropriateness, feasibility, and scientific value of the OCS Environmental Studies Program (ESP) and environmental aspects of the offshore oil and gas program. The ESP, which was authorized by the OCS Lands Act as amended (Section 20), is administered by the MMS and covers a wide range of field and laboratory studies in biology, chemistry, and physical oceanography, as well as studies of the social and economic impacts of OCS oil and gas development. The work is conducted through award of competitive contracts and interagency and cooperative agreements. The SC reviews the relevance of the information being produced by the ESP and may recommend changes in its scope, direction, and emphasis.

The SC comprises distinguished scientists in appropriate disciplines of the biological, physical, chemical, and socioeconomic sciences. The selection is based on maintaining disciplinary expertise in all areas of research, as well as geographic balance. Demonstrated knowledge of the scientific issues related to OCS oil and gas development is essential. Selection is made by the Department of the Interior on the basis of these factors.

Interested individuals should send a letter of interest and resumé within 30 days to:

Dr. Ken Turgeon, Executive Secretary and Chief, Environmental Studies Branch, Environmental Policy and Programs Division, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070. He may be reached by telephone on (703) 787-1717.

Dated: December 2, 1992.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 92–30476 Filed 12–15–92; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–334]

Change of Commission Investigative Attorney

In the Matter of certain condensers, parts thereof and products containing same, including air conditioners for automobiles.

Notice is hereby given that, as of this date, Steven A. Glazer, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of Gabrielle Siman, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: December 8, 1992.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 92–30441 Filed 12–15–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–627 (Preliminary)]

Pads for Woodwind Instrument Keys from Italy

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Italy of pads for woodwind instrument keys, provided for in subheading 9209.99.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[2]

Background

On October 21, 1992, a petition was filed with the Commission and the Department of Commerce by Prestini Musical Instruments Corp., Nogales, AZ, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of pads for woodwind instrument keys from Italy. Accordingly, effective October 21, 1992, the Commission instituted antidumping investigation No. 731–TA–627 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 29, 1992 (57 FR 49097). The conference was held in Washington, DC, on November 12, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Issued: December 8, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92–30442 Filed 12–15–92; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in section 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] As defined by the Department of Commerce, "The products covered by this investigation are pads for woodwind instrument keys, which are manufactured by Pisoni."

[Investigation No. 332–315]

Uranium and Uranium Enrichment Services: The Impact on the Domestic Industry of Imports Into the United States From Nonmarket Economy Countries

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

EFFECTIVE DATE: December 11, 1992.

SUMMARY: On September 25, 1991, following receipt of a request from the Committee on Finance of the U.S. Senate, the Commission instituted investigation No. 332–315 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). Notice of the investigation was published in the **Federal Register** of October 2, 1991 (56 F.R. 49905). On December 4, 1992, the Commission received a letter from the Committee on Finance of the U.S. Senate requesting that the Commission terminate its section 332 investigation on uranium. Accordingly, on December 11, 1992, the Commission terminated investigation No. 332–315.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Emanuel (202–205–3367), Energy and Chemicals Division, Office of Industries, or Mr. William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: December 11, 1992.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92–30506 Filed 12–15–92; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Release of Waybill Data

The Commission has received a request from the ALK Associates Inc. for permission to use certain data from the 1991 ICC Waybill Sample.

A copy of the request (WB101—12/9/92) may be obtained from the ICC Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data [Ex Parte 385 (Sub-No. 2)] are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 927–6196.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–30505 Filed 12–15–92; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32194]

Wheeling & Lake Erie Railway Company and Columbus & Ohio River Rail Road Company—Joint Relocation Project Exemption; Notice of Exemption

On December 2, 1992, Wheeling & Lake Erie Railway Company (WLER) and Columbus & Ohio River Rail Road Company (CORC) filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate a line of railroad in Harrison County, OH. The joint project involves the: (1) acquisition by WLER of overhead trackage rights over an approximately 11-mile portion of CORC's parallel line between Bowerston (CORC milepost 69.85) and Jewett (CORC milepost 81.11); (2) construction of two turnouts and two sections of connecting track, totalling approximately 2,300 feet, between WLER's line and CORC's line at Bowerston and Jewett; and (3)

abandonment by WLER of its 11.5-mile line between Bowerston (WLER milepost 168.25) and Jewett (WLER milepost 179.75). WLER and CORC planned to consummate the transaction on or about December 9, 1992.

WLER and CORC state that there are no active shippers located on the line segment to be abandoned. They contend that the proposed joint relocation project will result in the elimination of a duplicate rail line and promote the more efficient and effective utilization of railroad equipment and resources. Citing Denver & R.G.W.R. Co.—Joint Project—Relocation, 4 I.C.C.2d 95 (1987) (Joint Project), they further contend that the proposed joint relocation project will not involve a change in service to shippers, an expansion into new territory, or a change in existing competitive situations.

The Commission generally does not assume jurisdiction over the incidental abandonment and construction components of a relocation project if, as alleged here, none of the criteria set out in Joint Project have been triggered. Accordingly, the proposed abandonment and construction are not subject to Commission jurisdiction. The remainder of the joint relocation project involves WLER's acquisition of overhead trackage rights over CORC's line. While this qualifies under the class exemption procedures at 49 CFR 1180.2(d) (5) and (7), the Commission has determined that line relocations may also embrace trackage rights transactions such as the one proposed here. See D.T. & I.R.—Trackage Rights, 363 I.C.C. 878 (1981).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: William A. Callison, 100 East First Street, Brewster, OH 44613; and Michael J. Connor, 136 South Fifth Street, Coshocton, OH 43812.

Dated: December 9, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-30504 Filed 12-15-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The Agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total public burden (in hours) associated with the collection; and,
(7) An indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514-4115. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

Reinstatement of a Previously Approved Collection for Which Approval has Expired

(1) 1992 Probation Data Survey and 1992 Parole Data Survey
(2) CJ-7 and CJ-8. Bureau of Justice Statistics
(3) Annually
(4) State or local governments and Federal agencies or employees. The information will be used by officials, administrators and researchers to evaluate current conditions and trends nationwide concerning probation and parole populations.
(5) 339 annual responses at 1.5 hours per response
(6) 509 annual burden hours
(7) Not applicable under 3504(h)

Public comment on these items is encouraged.

Dated: December 10, 1992.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 92-30462 Filed 12-15-92; 8:45 am]

BILLING CODE 4410-18-M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on November 25, 1992, a proposed Consent Decree in *United States* v. *GAF Building Materials Corporation* was lodged with the U.S. District Court for the Central District of California. This is a civil action pursuant to section 113 of the Clean Air Act ("Act"), 42 U.S.C. 7413, against GAF Building Materials Corporation ("GAF") for violations of the New Source Performance Standards ("NSPS") provisions of the Act, 42 U.S.C. 7411(e). The complaint alleges that GAF violated the notification, performance testing, and startup requirements proscribed by the NSPS for glass furnaces, set forth at 40 CFR part 60, subparts A and CC.

GAF owns and operates a facility in Irwindale, California for the manufacture of chopped glass fibers which are used by other GAF facilities for the production of asphalt roofing materials. The Irwindale plant has three furnaces which produce molten glass for the manufacture of glass fibers. In August 1986, GAF modified one of its glass furnaces which doubled the production capacity of the furnace and increased the facility's emissions of particulate matter.

GAF's T-3 furnace is an "affected facility" within the meaning of 40 CFR 60.2 and 60.290, subject to the NSPS at 40 CFR part 60, subparts A and CC, because the modification of the T-3 furnace, which increased its emissions of particulate matter from 16 tons per day to 32 tons per day, commenced on or about August 6, 1986. The 1986 modification was well after the June 15, 1979 "applicability" date for the NSPS for glass furnaces.

The proposed consent decree requires GAF to pay $89,600 in civil penalties, and to comply with all requirements of the NSPS. GAF has voluntarily ceased operations at the facility, but agrees under the terms of the settlement to comply with all requirements of the NSPS should it resume operations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *GAF Building Materials Corporation*, D.O.J. Ref. 90–5–2–1–1439.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Central District of California, room 7516 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012; the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California; and at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Washington, DC 20044, 202–347–2072. Copies of the proposed Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.75 (25 cents per page reproduction cost) payable to "Consent Decree Library".

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–30454 Filed 12–15–92; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on December 3, 1992 a proposed Consent Decree in *United States* v. *C.H. Heist et al.*, Civil Action No. C1–95–955, was lodged in the United States District Court for the Southern District of Ohio. The Complaint filed by the United States asserts a claim under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), for costs incurred by the United States in responding to the release or threat of release of hazardous substances at the Pristine, Inc. site in Reading, Ohio. The Consent Decree requires eight *de minimis* settling defendants and the United States Environmental Protection Agency, as a *de minimis* settling federal agency, to pay $150,000 to reimburse the United States Environmental Protection Agency for unrecovered past response costs at the Pristine, Inc. site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *C.H. Heist, et al.*, D.J. Ref. No. 90–11–2–279A.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Southern District of Ohio, United States Courthouse, 100 E. 5th St., Cincinnati, Ohio 45202 (contact Assistant United States Attorney Gerald F. Kaminski); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Nancy-Ellen Zusman); and (3) the Consent Decree Library, 601 Pennsylvania Avenue, NW., Washington, DC 20004, (202) 347–2072. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. For a copy of the Consent Decree, please enclose a check in the amount of $7.50 (25 cents per page reproduction charge) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 92–30452 Filed 12–15–92; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Keystone Terminal Operating Corp.*, Civil Action No. 91–7634 was lodged on December 3, 1992 with the United States District Court for the Eastern District of Pennsylvania. Defendant Keystone Terminal Operating Corp. owns a gasoline facility in Philadelphia, Pennsylvania. The proposed consent decree requires the defendant to comply with fuel volatility regulations promulgated under the Clean Air Act and pay a civil penalty of $12,596 for certain alleged past violations of these regulations.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should specifically refer to *United States* v. *Keystone Terminal Operating Corp.*, D.J. reference #90–5–2–1–1652.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of Pennsylvania, 3310 U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106; and at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347–2072. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $3.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section.

[FR Doc. 92–30453 Filed 12–15–92; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of Established 1993 aggregate production quotas.

SUMMARY: This notice establishes initial 1993 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act.

DATES: This order is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the

DEA pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On September 22, 1992, a notice of the proposed initial 1993 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (57 FR 43751). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before October 22, 1992. Three comments were received.

Mallinckrodt Specialty Chemicals Company commented that the proposed initial 1993 aggregate production quotas for thebaine, codeine (for sale), hydromorphone and opium were insufficient to provide for the estimated medical, scientific, research, and industrial needs of the United States, estimated export requirements, and for the establishment and maintenance of reserve stocks. Mallinckrodt's comments were based on their forecasted 1993 domestic sales, forecasted 1993 exports and trends in the aggregate production quotas from 1986 to 1993.

After reviewing the relevant information, the DEA has determined that no increases are necessary for the initial 1993 aggregate production quotas for thebaine, codeine (for sale), hydromorphone and opium at this time.

Mallinckrodt Specialty Chemicals Company also commented that the proposed initial 1993 aggregate production quotas for oxycodone, morphine (for conversion), hydrocodone, diphenoxylate and codeine (for conversion) were insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States and for the establishment and maintenance of reserve stocks. Taking into consideration the involved companies' current and projected sales and inventories and the Food and Drug Administration's (FDA) estimates of medical need for 1993, the initial 1993 aggregate production quotas for oxycodone, morphine (for conversion), hydrocodone, diphenoxylate and codeine (for conversion) were adjusted by the DEA.

Polaroid Corporation commented that the proposed initial 1993 aggregate production quota for 2,5-dimethoxyamphetamine was insufficient to provide for the estimated industrial needs of the United States and for the establishment and maintenance of reserve stocks. The DEA has reviewed Polaroid's request and has adjusted the initial 1993 aggregate production quota for 2,5-dimethoxyamphetamine.

SmithKline Beecham Pharmaceuticals commented that the proposed initial 1993 aggregate production quota for amphetamine was insufficient to meet their revised production requirements. The DEA has taken this into consideration and has adjusted the 1993 aggregate production quota for amphetamine accordingly.

A manufacturer has advised the DEA that the initial 1993 aggregate production quota for alfentanil may not be sufficient for 1993.

The DEA has reviewed and adjusted the initial 1993 aggregate production quota of alfentanil. The adjustment was based on revised 1992 and projected 1993 sales and the FDA's estimates of medical need for 1993.

The DEA has added an initial 1993 aggregate production quota for methadone (for conversion). This quota is to be used for the manufacture of methadone solely for conversion to levo-alpha-acetylmethadol. This quota will be reviewed again during 1993 and will be adjusted if necessary.

Pursuant to section 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

These actions have been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Administrator has determined that this action does not require a regulatory flexibility analysis.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of the 1970 (21 U.S.C. 826) and delegated to the Administrator of the DEA by § 0.100 of title 28 of the Code of Federal Regulations, the Administrator of the DEA hereby orders that the 1993 initial aggregate production quotas, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Established initial 1993 quotas (in grams)
Schedule I:	
2,5-Dimethoxyamphetamine	15,000,000
Lysergic acid diethylamide	9
3,4-Methylenedioxyamphetamine	2
3,4-Methylenedioxymethamphetamine	2
Tetrahydrocannabinols	35,000
Psilocyn	5
Psilocybin	5
4-Methylaminorex	2
Methaqualone	2
Mescaline	2
Methcathinone	2
N-Hydroxy-3,4-methylenedioxyamphetamine	0
Dimethylamphetamine	0
levo-alpha-acetylmethadol	150,000
Schedule II:	
Alfentanil	8,790
Amobarbital	5
Amphetamine	446,000
Cocaine	566,000
Codeine (for sale)	63,813,000
Codeine (for conversion)	9,297,000
Desoxyephedrine	1,161,000

Basic class	Established initial 1993 quotas (in grams)
1,140,000 grams of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 21,000 grams for methamphetamine.	
Dextropropoxyphene	107,296,000
Dihydrocodeine	578,000
Diphenoxylate	632,000
Ecgonine (for conversion)	650,000
Fentanyl	50,900
Glutethimide	0
Hydrocodone	6,137,000
Hydromorphone	261,000
Levorphanol	7,500
Meperidine	8,325,000
Methadone (for sale)	2,604,000
Methadone (for conversion)	220,000
Methadone intermediate (4-Cyano-2-dimethylamino-4,4-diphenylbutane)	3,255,000
Methamphetamine (for conversion)	603,000
Methylphenidate	3,411,000
Mixed Alkaloids of Opium	800
Morphine (for sale)	6,378,000
Morphine (for conversion)	78,650,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	682,000
Oxycodone (for sale)	3,282,000
Oxycodone (for conversion)	6,300
Oxymorphone	2,500
Pentobarbital	12,912,000
Phencyclidine	15
Phenylacetone (for conversion)	320,000
Secobarbital	587,000
Sufentanil	620
Thebaine	7,155,000

Dated: November 25, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-30497 Filed 12-15-92; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 92-61]

James H. Nickens, M.D.; Revocation of Registration

On July 30, 1992, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause and Immediate Suspension of Registration to James H. Nickens, M.D. (Respondent), of 3551 16th Street, NW., Washington, DC, seeking to revoke DEA Certificate of Registration, AN9606534, and deny any pending applications for renewal of that application. The grounds for the issuance of the Order to Show Cause and Immediate Suspension of Registration were that Respondent lacked state authorization to handle controlled substances in the District of Columbia and that his continued registration would be inconsistent with the public interest. Additionally, citing his preliminary finding that Respondent's continued registration posed an imminent danger to the public health and safety, the Administrator ordered the immediate suspension of his registration pending the outcome of these proceedings. 21 U.S.C. 824(d).

By letter dated August 29, 1992, Respondent requested a hearing on the issues raised in the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Paul A. Tenney. On September 24, 1992, the Government filed a motion for summary disposition. On October 8, 1992, the Respondent filed a response in opposition to the Government's motion. On October 9, 1992, Judge Tenney issued his Opinion and Recommended Decision, recommending the revocation of Respondent's DEA Certificate of Registration based on his lack of state authorization to handle controlled substances. Neither party filed exceptions to the administrative law judge's opinion and recommended decision and, on November 9, 1992, the administrative law judge transmitted the record to the Administrator. The Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby enters his final order in this matter.

The Administrator finds that as of April 30, 1991, the Respondent's District of Columbia controlled substances registration expired. Consequently, Respondent is without authority to handle controlled substances in the District of Columbia. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Bobby Watts, M.D.*, 53 FR 11919 (1988); *Wingfield Drugs, Inc.*, 52 FR 27070 (1987); *Robert F. Witek, D.D.S.*, 52 FR 47770 (1987); and cases cited therein.

In his response to the Government's motion for summary disposition, Respondent acknowledges that his registration to handle controlled substances in the District of Columbia expired on April 30, 1991. Respondent argues, *inter alia*, this his DEA registration should not be revoked because he filed an application with the District of Columbia for renewal of his registration to handle controlled substances on July 29, 1992, and that he expects soon have a valid registration. The Administrator finds that since Respondent is not currently authorized to handle controlled substances in the District of Columbia, he is not entitled to possess a DEA Certificate of Registration.

Since there is no dispute about Respondent's lack of authority to handle controlled substances in the District of Columbia, the administrative law judge properly granted the Government's motion for summary disposition. When no question of fact is involved, or when the facts are agreed upon, a plenary, adversarial administrative proceeding with the full panoply of due process rights is not obligatory. *See Philip E. Kirk, M.D.*, 48 FR 32887 (1983), *aff'd sub*

nom Kirk v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AN9606534, previously issued to James H. Nickens, M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective January 15, 1993.

Dated: December 10, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-30498 Filed 12-15-92; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL COMMISSION ON FINANCIAL INSTITUTION REFORM, RECOVERY, AND ENFORCEMENT

Meeting

AGENCY: National Commission on Financial Institution Reform, Recovery, and Enforcement.

TIME AND DATE: 9 a.m. to 4 p.m., Wednesday, January 13, 1993.

PLACE: Peter Zenger Room, National Press Club, 13th Floor, 529 14th Street NW., Washington, DC 20045.

STATUS: The meeting will be open to the public. It is possible that portions of the meeting may be closed to the public pursuant to 5 U.S.C. 552b, Government in the Sunshine Act.

MATTERS TO BE CONSIDERED: At the public portion of the meeting, the Commission shall consider the progress of the Commission's study to date and make such determinations as may be necessary to conduct hearings and complete the Commission's work.

Following the public portion of the meeting, the Commission may consider and discuss in a closed session information on specific financial institutions which information is contained in or related to examination, operating or condition reports, or which constitutes commercial or financial information obtained on a confidential or privileged basis. These matters are within exemptions (c)(4), (c)(8) and (c)(9)(A) of 5 U.S.C. 552b, the Government in the Sunshine Act, which are applicable by virtue of 5 U.S.C. app. 2 section 10(d), the Federal Advisory Committee Act.

The Commission may also consider in a closed session the issuance of subpoenas or participation in a legal action or proceeding to enforce its subpoenas. These matters are within exception (c)(10) of the Government in the Sunshine Act. In addition, the Commission will consider any other matters as may properly come before it. It is possible that portions of the meeting relating to such other matters may be closed by the Commission if the Commission's counsel certifies that such portions of the meeting may be closed consistent with the Government in the Sunshine Act and the determination by the Administrator of the General Services Administration that such portions may be closed.

CONTACT PERSONS FOR MORE INFORMATION: Larry G. Hicks (202) 632-1556, or Linda R. Johnson (202) 632-1556.

Larry G. Hicks,

Director of Administration.

[FR Doc. 92-30474 Filed 12-15-92; 8:45 am]

BILLING CODE 6820-PD-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Declined General Applications for Federal Assistance

AGENCY: National Endowment for the Arts.

ACTION: Circular 1 revised; final notice.

SUMMARY: Process for reconsideration of declined applications for Federal assistance. This circular adopts in final form a Proposed Procedure published June 8, 1992, in response to public comment. This notice is being republished in its entirety, for the convenience of the reader, due to printing errors in the version published December 8, 1992 (57 FR 58031).

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, room 522, National Endowment for the Arts, Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506-0001; (202) 682-5418 (voice) or (202) 682-5496 (Voice/T.T.: Text-Telephone, a telephone device for hearing impaired individuals). Visually or learning impaired people may obtain assistance in acquiring a cassette recording of this circular by writing or calling: Office for Special Constituencies, room 605, National Endowment for the Arts, Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506-0001; (202) 682-5532 (voice) or (202) 682-5496 (Voice/T.T.).

1. Purpose

The processes by which the National Endowment for the Arts (the "Endowment") offers financial and technical assistance have been designed to result in supporting projects of artistic excellence and merit. The Endowment relies on advisory peer panel review of grant applications as the first step in assuring informed support. Panel recommendations are subsequently reviewed by the National Council on the Arts, which provides advice to the Chairperson of the Endowment. The Chairperson then decides whether to approve the applications recommended by the Council.

This Circular establishes a procedure for reconsideration of applications for financial and technical assistance, which have been declined by the National Endowment for the Arts based on negative recommendations of the peer review panel. This procedure does not include reconsideration of grant amounts once a grant is awarded. This Process does not apply to applications recommended by the peer review panel but rejected by the Council or Chairperson. Reconsideration of such applications is had at the discretion of the Chairperson only. The provisions of this Circular, which updates and amends the earlier Circular, dated March 29, 1983, on this subject, do not apply to procurement governed by the Federal Acquisition Regulations.

2. Policy

(a) *Statement.* Award of financial and technical assistance is discretionary. Panel recommendations are made using criteria described in the Program guidelines. Criteria that involve subjective, qualitative judgments are not subject to reconsideration. Notwithstanding this fact, a Project Director, Authorizing Official, or individual whose application has been declined (hereafter referred to as "applicant") may obtain an explanation of the declination from the appropriate Endowment Program Director. Following receipt of the explanation, if the applicant believes that the declination was based on one or more of the following Grounds for Reconsideration, reconsideration may be obtained under the procedure outlined in Section 3, below.

(b) *Ground(s) for Reconsideration.* Reconsideration of application declinations is available solely for one or more of the following three reasons relating to procedural impropriety or error:

(i) Panel considered criteria other than those appearing in the relevant Program guidelines;

(ii) Individual(s) with conflict of interest served on peer review panel;

(iii) Information relevant to the deliberations was provided by staff,

panelists, or others, but not including the applicant, which was inaccurate or incomplete, despite the fact that the applicant provided the Endowment staff with accurate and complete information as part of the regular application process.

3. Procedures To Be Followed for Reconsideration

(a) *Explanation by Program Director.* Within 30 days following written notification from the Endowment of its decision on any application, the applicant may request an explanation for a declined application from the appropriate Program Director. This initial request may be by telephone, in person, or in writing, as required by the individual Program. The Program Director will explain within 30 days following the applicant's request the basis for declination, which may include a summary of the peer review panel comments and applicable on-site evaluation reports, the names of all panel and staff members, and other information, not otherwise exempt from disclosure, requested by the applicant.

The Program Director may designate another Endowment official to provide the explanation for the declination to the applicant. The term "Program Director," as used here, applies to such designees.

(b) *Request for Reconsideration.* If the Program Director's explanation appears to the applicant to indicate the presence of one or more of the "Grounds for Reconsideration" listed in paragraph 2(b) above, the applicant may submit to the appropriate Deputy Chairperson (hereafter referred to as "Deputy") a written Request for Reconsideration. This written request must reference the particular ground(s) for reconsideration and specify the facts supporting his or her claim, with enough particularity to enable the Deputy to determine whether the claim is meritorious. A request of this nature will be considered only if: (a) The Request for Reconsideration is based on one or more of the grounds listed in paragraph 2(b); (b) the applicant has obtained an explanation from the appropriate Program Director; (c) the applicant has specified with sufficient particularity the facts supporting his or her claim; (d) the Request for Reconsideration is received by the Deputy within 30 days after the date of the Program Director's explanation.

(c) *Action by the Appropriate Deputy.*

(i) The appropriate Deputy will review the applicant's Request for Reconsideration, records of the panel discussions, the applicant's application file, and any other relevant materials to determine if the panel's recommendation was influenced by one or more of the grounds listed in paragraph 2(b). In conducting this review, the Deputy may request additional information from the applicant, obtain advice from a peer review panel, or conduct additional investigation or review. However, no revisions or additions to the grant application materials will be accepted in connection with the Request for Reconsideration, except to the extent that additional materials are necessary to substantiate the applicant's claim that one or more of the grounds listed in paragraph 2(b) exists.

(ii) The Deputy may conduct the reconsideration personally or may designate another Endowment official who had no part in the initial evaluation to do so. The term "Deputy," as used here, applies to such designees.

(iii) The Deputy will provide written notification of the results of the reconsideration within 45 days following receipt of the Request for Reconsideration. If the Deputy cannot provide such notice within 45 days, the applicant will receive a written explanation of the need for more time and an estimate of when the results can be expected.

(d) *Resolution of Requests for Reconsideration.* Reconsideration is not an adversarial process, and a formal hearing is not provided. The Endowment cannot assure applicants that reconsideration will result in the award of a grant even if error is established in connection with the initial evaluation. The Deputy shall make one of the following four determinations. The determinations of the Deputy shall be in writing and shall be final.

(i) If the Deputy determines that none of the grounds listed in paragraph 2(b) existed, the declination will be affirmed.

(ii) If the Deputy determines that one or more of the grounds listed in paragraph 2(b) existed, but the recommendation of the peer review panel was not affected materially, the declination will be affirmed.

(iii) If the Deputy determines that one or more of the grounds listed in 2(b) existed, and he or she can determine, based on the materials reviewed, that but for the infirmity in the review process, the application would have been recommended, the application will be considered by the National Council on the Arts at its next regularly scheduled meeting. The Chairperson of the Endowment then will decide whether to approve applications recommended by the Council.

(iv) If the Deputy determines that one or more of the grounds listed in paragraph 2(b) occurred, but he or she cannot determine whether, but for the infirmity, the peer review panel would have recommended that application, the application will be reviewed by a panel. If the panel recommends the application for support, the National Council on the Arts will review it at the next regularly scheduled meeting. The Chairperson of the Endowment then will decide whether to approve applications recommended by the Council.

4. Reporting Requirements

Each appropriate Deputy will maintain a record of Requests for Reconsideration, in accordance with the Endowment's Records Disposition schedule. The record will include the date of receipt, the name of the applicant, including name of organization or institution where applicable, the application number, the determinations of the Deputy, and once the Deputy's review is complete, the date on which each applicant was notified of the results of the reconsideration, and what those results were.

Dated: December 11, 1992.

Catherine Stevens,

General Counsel, National Endowment for the Arts.

[FR Doc. 92–30524 Filed 12–15–92; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Research, Evaluation, and Dissemination; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: January 11–12, 1993.

Place: One Washington Circle Hotel, One Washington Circle Northwest, Washington, DC.

Type of Meeting: Closed.

Contact Person: Ms. Barbara Lovitts, Division of Research, Evaluation and Dissemination, rm. 1227, National Science Foundation, 1800 G Street, NW., Washington, DC 20550, Telephone (202) 357–7071.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Research in Teaching and Learning Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including

technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 11, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–30472 Filed 12–15–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483]

Union Electric Company Callaway Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of section III.D.1.(a) of appendix J to 10 CFR part 50 issued to the Union Electric Company, (the licensee), for the Callaway Plant, Unit 1, located in Callaway County, Missouri.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from section III.D.1.(a) of appendix J to 10 CFR part 50, which requires a set of three Type A tests (Containment Integrated Leakage Rate Test or CILRT) be performed, at approximately equal intervals during each 10-year service period. This licensee request is for a one-time exemption from the requirement that the third Type A test of the first 10-year service period be performed during the service period. The exemption would extend the current service period by approximately 3 months beyond the normal 10-year service period. The licensee request stated the exemption would extend the current service period by 14 months. This statement was based on the assumption that the 10-year service period began with preoperational CILRT performed in January 1984, instead of the inservice date of December 1984. The 10-year service period began in December 1984.

The proposed action is in accordance with licensee's request for exemption dated June 16, 1992.

The Need for the Proposed Action

The proposed exemption is needed because the licensee's current refueling outage schedule requires the third CILRT for the first 10-year service period be performed at either a 35-month or 53-month interval. (CILRTs are generally performed coincident with refueling outages due to the time required for their performance.) The first and second CILRT testing intervals for the first 10-year service period were 40 and 41 months. Without this exemption, the licensee would be required to perform the third CILRT at a 35-month interval and perform an additional (fourth) CILRT during the second 10-year service period.

Environmental Impacts of the Proposed Action

The Commission's staff has determined that granting the proposed exemption would not significantly increase the probability or amount of expected primary containment leakage and that containment integrity would thus be maintained. The current requirement in Section III.D.1.(a) that three Type A tests be performed would continue to be met, except one interval (54-months) will be longer than specified in the Callaway Technical Specifications. Consequently, the probability of accidents would not be increased, nor would the post-accident radiological releases be greater then previously determined. Neither would the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission's staff concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves a change to surveillance and requirements. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed action, any alternatives would have either no or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts attributed to the facility but would result in adding operating cost by requiring a fourth Type A test during the second 10-year service period.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement related to the operation of Callaway Plant, Unit No. 1," dated January 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated June 16, 1992, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington DC and at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Dated at Rockville, Maryland, this 10th day of December 1992.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–30487 Filed 12–15–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–2259]

Pathfinder Mines Corp.; Finding of No Significant Impact Regarding Issuance of an Amendment to Source Material License SUA–672 for the Pathfinder Mines Corp.; Lucky Mc Mill, To Incorporate Reclamation Schedules, Fremont County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a finding of no significant impact.

1. Proposed Action

The administrative action is issuance of a license amendment to incorporate an enforceable reclamation schedule for the Lucky Mc Mill in Fremont County, Wyoming.

2. Reasons for Finding of No Significant Impact

The proposed amendment is administrative, incorporating

reclamation milestones into the license in accordance with the Memorandum of Understanding (MOU) between the Environmental Protection Agency (EPA) and the NRC which was published in the **Federal Register** on October 25, 1991. The Notice of Intent to amend Source Material License SUA–672 for the Lucky Mc Mill to incorporate reclamation schedules was published in the **Federal Register** on September 18, 1992. The NRC accepted comments on this proposed licensing action for 45 days. No comments were received. In accordance with 10 CFR 51.22(c)(11), the Commission has determined that no environmental analysis need be performed since no significant impacts will result from the proposed licensing actions.

3. Action

The Commission action is to amend Source Material License SUA–672 upon publication of this Notice. The action is based on this Finding of No Significant Impact and no comments begin received to the Notice of Intent published on September 18, 1992.

This Notice, together with the Notice of Intent to Amend Source Material License SUA–672, are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Denver, Colorado, this 8th day of December 1992.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office.

[FR Doc. 92–30488 Filed 12–15–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–8084]

Rio Algom Mining Corp., Finding of No Significant Impact Regarding Issuance of an Amendment to Source Material License SUA–1119 for the Rio Algom Mining Corp., Lisbon Mill, To Incorporate Reclamation Schedules, San Juan County, UT

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of a Finding of No Significant Impact.

1. Proposed Action

The administrative action is issuance of a license amendment to incorporate an enforceable reclamation schedule for the Lisbon Mill in San Juan County, Utah.

2. Reasons for Finding of No Significant Impact

The proposed amendment is administrative, incorporating reclamation milestones into the license in accordance with the Memorandum of Understanding (MOU) between the Environmental Protection Agency (EPA) and the NRC which was published in the **Federal Register** on October 25, 1991. The Notice of Intent to amend Source Material License SUA–1119, for the Lisbon Mill to incorporate reclamation schedules was published in the **Federal Register** on August 18, 1992. The NRC accepted comments on this proposed licensing action for 45 days. No comments were received. In accordance with 10 CFR 51.22(c)(11), the Commission has determined that no environmental analysis need be performed since no significant impacts will result from the proposed licensing actions.

3. Action

The Commission action is to amend Source Material License SUA–1119 upon publication of this Notice. The action is based on this Finding of No Significant Impact and no comments being received to the Notice of Intent published on August 18, 1992.

This notice, together with the Notice of Intent to Amend Source Material License SUA–1119, are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Denver, Colorado this 8th day of December 1992.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office.

[FR Doc. 92–30486 Filed 12–15–92; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before January 15, 1993. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416. Telephone: (202) 205–6629

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

Title: Procurement Automated Source System Application and Validation of PASS Registration

SBA Form No.: SBA Forms 1167 and 1395

Frequency: On Occasion

Description of Respondents: Small Businesses interested in federal procurement opportunities

Annual Responses: 219,500

Burden: 48,000

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 92–30480 Filed 12–15–92; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Politico-Military Affairs

[Public Notice 1736]

Suspension of Munitions Export Licenses to Somalia

AGENCY: Department of State.

ACTION: Public notice.

SUMMARY: Notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles or defense services to Somalia are suspended until further notice pursuant to sections 38 and 42 of the Arms Export Control Act.

EFFECTIVE DATE: December 16, 1992.

FOR FURTHER INFORMATION CONTACT: Clyde G. Bryant, Jr., Chief, Compliance Analysis Division, Office of Defense Trade Controls, Bureau of Politico-Military Affairs, Department of State (703–875–6650).

SUPPLEMENTARY INFORMATION: Effective immediately, it is the policy of the U.S. Government to deny all applications for

licenses and other approvals to export or otherwise transfer defense articles and services to Somalia. In addition, U.S. manufacturers and exporters and any other affected parties are hereby notified that the Department of State has suspended all previously issued licenses and approvals authorizing the export or other transfer of defense articles or defense services to Somalia. This action has been taken in accordance with U.N. Security Council Resolution 733 instituting a general and complete embargo on all deliveries of weapons and military equipment to Somalia.

The licenses and approvals that have been suspended include any manufacturing licenses, technical assistance agreements, technical data, and commercial military exports of any kind involving Somalia subject to the Arms Export Control Act. This action also precludes the use in connection with Somalia of any exemptions from licensing or other approval requirements included in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

This action has been taken pursuant to sections 38 and 42 of the Arms Export Control Act (22 U.S.C. 2778, 2791) and § 126.7 of the ITAR.

Dated: December 4, 1992.

Robert L. Gallucci,

Assistant Secretary, Bureau of Politico-Military Affairs, Department of State.

[FR Doc. 92–30460 Filed 12–15–92; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 1734]

Restriction of Munitions Export Licenses to Yemen

AGENCY: Department of State.

ACTION: Public notice.

SUMMARY: Pursuant to sections 38 and 42 of the Arms Export Control Act, a notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles or defense services to Yemen are being reviewed on a more scrutinized case-by-case basis, with a presumption of denial for lethal articles or items supporting such articles.

EFFECTIVE DATE: November 16, 1992.

FOR FURTHER INFORMATION CONTACT: Clyde G. Bryant, Jr., Chief, Compliance Analysis Division, Office of Defense Trade Controls, Bureau of Politico-Military Affairs, Department of State (703–875–6650).

SUPPLEMENTARY INFORMATION: It is the policy of the U.S. Government to review all licenses and approvals authorizing the export or other transfer of defense articles or defense services to Yemen on a more highly scrutinized case-by-case basis, with a presumption of denial for lethal articles. Approvals for export of defense articles or defense services bound for Yemen will be considered primarily for non-lethal defense articles or services.

The licenses and approvals subject to this policy include manufacturing licenses, technical assistance agreements, technical data, and commercial military exports of any kind involving Yemen subject to the Arms Export Control Act. This policy also prohibits the use in connection with Yemen of any exemptions from licensing or other approval requirements included in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

For the purposes of this policy, "nonlethal defense articles" means an article that is not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily harm or death (see, e.g., 10 U.S.C. 2547).

This action has been taken pursuant to sections 38 and 42 of the Arms Export Control Act (22 U.S.C. 2778, 2791) and § 126.7 of the ITAR in furtherance of the foreign policy of the United States.

In accordance with §§ 126.3 and 126.7 of the ITAR, affected U.S. persons desiring review of this policy with regard to a particular export may petition the Director, Office of Defense Trade Controls.

Dated: November 27, 1992.

Robert L. Gallucci,

Assistant Secretary, Bureau of Politico-Military Affairs, Department of State.

[FR Doc. 92–30461 Filed 12–15–92; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD–92–070]

Navigation Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The U.S. Coast Guard is seeking applications for membership for three-year terms on the Navigation Safety Advisory Council (NAVSAC). On June 30, 1993, there will be seven vacancies on the 21-member Council. The Coast Guard will review all applications and make recommendations to the Secretary. The appointments will be made by the Secretary of Transportation.

DATES: Completed applications must be received by February 28, 1993.

ADDRESSES: To request an application, either call (202) 267–0415 and give your name and mailing address or write to Commandant (G–NSR–3), U.S. Coast Guard, 2100 Second St., SW., room 1420, Washington, DC 20593–0001. Completed applications and resumes should be mailed or delivered to the above address.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Executive Director, Navigation Safety Advisory Council at (202) 267–0415.

SUPPLEMENTARY INFORMATION: The Navigation Safety Advisory Council was originally established as the Rules of the Road Advisory Council (RORAC) under the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073). The RORAC provided advice to the Secretary of Transportation on matters relating to the International and Inland Navigation Rules.

Section 105 of the Coast Guard Authorization Act of 1989 (Pub. L. 101–225; 33 U.S.C. 1231a(e)), enacted December 12, 1989, changed the name of the RORAC to the Navigation Safety Advisory Council (NAVSAC), broadened the scope of the Council, and extended the life of the Council to September 30, 1995.

NAVSAC is a deliberative body which advises the Secretary of Transportation, via the Commandant, U.S. Coast Guard, on matters relating to the prevention of vessel collisions, rammings, and groundings, including, but not limited to: Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

The Council consists of 21 members who have expertise, knowledge and experience in the Navigation Rules of the Road (International and Inland), aids to navigation, navigational safety equipment, vessel traffic service, and traffic separation schemes and vessel routing. To assure balanced representation, members are chosen, insofar as practical, from the following groups: (1) Recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety; (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry; (3) individuals with an interest in maritime

law; and (4) Federal and state officials with responsibility for vessel and port safety. Each member is appointed for a term of three years.

The Council meets twice each year at various sites in the continental United States. Members are entitled to per diem allowances and reimbursement for travel expenses to attend the meetings. The three-year membership term will begin July 1, 1993, and, assuming that the Council is continued beyond September 30, 1995, will expire June 30, 1996.

Dated: December 10, 1992.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-30500 Filed 12-15-92; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement: Los Angeles County, CA

AGENCY: Federal High Administration (FHWA), DOT.

ACTION: Amended notice.

SUMMARY: The FHWA is issuing this notice to advise the public of closure of the comment period for the final Environmental Impact Statement [EIS No. 920134] for CA-710/Long Beach Freeway Construction, from I-10/San Bernardino Freeway to I-210/Foothill Freeway. Comments must be received by January 15, 1993. The address is: Federal Highway Administration, Attn. Mr. James Bednar, Chief/District Operations, P.O. Box 1914, Sacramento, California 95812-1915.

FOR FURTHER INFORMATION CONTACT: Mr. James Bednar at the above address. Telephone: (916) 551-1310.

SUPPLEMENTARY INFORMATION: The final EIS for route 710 identifies the Meridian Variation Alignment as the preferred alternative. The FHWA approved the final EIS as adequate for public disclosure of information on the preferred alternative regarding potential impacts and proposed mitigation as required by the National Environmental Policy Act (NEPA). However, because of the controversy surrounding the project and the magnitude of the impacts relating to potential community disruption, residential relocation, business dislocation, and cultural resources, the final project concept and location for the preferred alternative have not yet been approved by the FHWA.

An Enhancement and Mitigation Committee was established to develop more comprehensive mitigation and enhancement measures to further reduce the impacts of the preferred alternative. The group has met frequently since its initial meeting on September 9, 1992. The Committee's focus has been on both the mitigation and enhancement measures mentioned in the final EIS and on identification and development of appropriate additional mitigation and enhancement opportunities which will minimize the facility's "footprint" through the environmentally and historically sensitive areas the project traverses. The **Federal Register** notice of August 4, 1992, advised that public comments on the final EIS would be accepted until the FHWA published an additional notice 30 days prior to the end of the comment period. The notice further stated that it was anticipated that this would take place by the end of the current calendar year (1992).

At the Committee's meeting of December 10, 1992, significant progress was made on the Commtitee's recommendation for minimizing the facility's "footprint". The Commtitee has narrowed the number of options from 16 to 2 still under consideration and made a number of additional decisions regarding other mitigation measures.

Caltrans has advised the FHWA that Caltrans will report to the FHWA on the progress of the Committee to date. This report will be submitted to the FHWA on December 14, 1992. Copies of this report may be obtained from Caltrans District 7 Office located at 120 S. Spring Street, Los Angeles, California 90012 or from the FHWA Office in Sacramento at the address above. The report also will be available at the City Clerks' Offices in Alhambra, South Pasadena, Pasadena, and Los Angeles, California.

Comments on the FEIS may be directed to Mr. James Bednar, FHWA, at the address indicated above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: December 11, 1992.

Roger Borg,

Division Administrator, Sacramento, California.

[FR Doc. 92-30515 Filed 12-15-92; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 15, 1993.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10925–N	Southern Air Transport Miami, FL	49 CFR 172.101	To authorize the transportation of dimethylhydrazine, Class 3 in 55-gallon DOT Specification 50 drums and nitrogen tetroxide class 6 in 106A100W or 110A500W tank containers aboard cargo aircraft only. (mode 4.)
10926–N	Radcal Corporation Monrovia, CA .	49 CFR 173.34(d)	To manufacture, mark and sell radiation monitors which incorporate a DOT Specification 39 cylinder, without a safety relief device, containing argon, Division 2.2 (modes 1, 4, 5.)
10927–N	Hoechst Celanese Corporation Pampa, TX.	49 CFR 173.21, 173.31(b)(1) and (2).	To authorize tank cars with bottom outlets and interior heater coil caps to remain open during loading process of various hazardous materials. (mode 2.)
10928–N	Jefferson Smurfit Corp./Container Corp. of America Brewton, AL.	49 CFR 174.67(i) and (j)	To authorize Chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (mode 2.)
10929–N	Consolidated Rail Corporation Philadelphia, PA.	49 CFR 174.67(l) and (j)	To authorize tank cars containing various hazardous materials to remain connected during unloading without the physical presence of an unloader. (mode 2.)
10931–N	Western Atlas International/Atlas Wireline Service Houston, TX.	49 CFR 173.24, 173.304(a), 173.34(d), 175.30, 178.37–5.	To authorize the manufacture, mark and sell of DOT specification 3AA cylinder, constructed of titanium alloy with a design pressure of 20,000 psi for use in transporting flammable gas, n.o.s., Division 2.1 (modes 1, 2, 3, 4.)
10932–N	Nalco Chemical Company Naperville, IL.	49 CFR Parts 172, 173 and 177 ...	To authorize the shipment of small quantities of Packing Group II and III hazardous materials in privately owned automobiles and small trucks to be exempt from shipping papers, marking, labelling and employee training. (mode 1.)
10933–N	Rollins CHEMPAK, Inc. Houston, TX.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To authorize the multi-modal transportation of lab-packs with other containerized hazardous materials with partial relief from certain segregation requirements. (modes 1, 2, 3.)
10934–N	LaRoche Industries Inc. Atlanta, GA.	49 CFR 179.101–1	To authorize the transportation of various hazardous materials in DOT Specification 105A100 or 105A200 tank car tanks constructed of stainless steel. (mode 2.)
10935–N	NSI Norfolk, VA	49 CFR 172.331, 173.154, 173.164, 173.178, 173.182, 173.204, 173.217, 173.234, 173.245(b), 173.366 and, 173.367.	To manufacture, mark and sell non-DOT specification flexible nonreusable bulk bags of woven polypropylene fabric for the shipment of certain flammable, corrosive, oxidizer or poison B solids. (modes 1, 2, 3.)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 10, 1992.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 92–30465 Filed 12–15–92; 8:45 am]

BILLING CODE 4910–60–M

Research and Special Programs Administration Office of Hazardous Materials Safety

Notice of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before December 31, 1992.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
6874–X	Degussa Corporation Ridgefield Park, NY (See Footnote 1).	6874
7765–X	Carleton Technologies Inc. Orchard Park, NY (See Footnote 2).	7765
8725–X	CNG Cylinder Company Long Beach CA (See Footnote 3).	8725
8958–X	Goex, Inc. Moosic, PA (See Footnote 4).	8958
9061–X	The S.S.I. Group, Ltd. Fairdale, KY (See Footnote 5).	9061
9645–X	Bonar Plastics, Inc. Lindsay, Ontario, CN (See Footnote 6).	9645
10645–X	Essex Cryogenics of Missouri, Inc. St. Louis, MO (See Footnote 7).	10645
10810–X	U.S. Department of the Army Falls Church, VA (See Footnote 8).	10810

(1) To modify exemption to provide for an optional non-DOT specification wooden box of ⅜ inch thickness for use in transporting sodium cyanide, solid, classed as poison B.

(2) Request variations in test criteria for non-DOT specification missile gas storage systems containing nitrogen or helium, classed as non-flammable gas.

(3) To manufacture, mark and sell a non-DOT specification fiber reinforced plastic cylinder of 3,600 psi for shipment of certain flammable and nonflammable gases.

(4) To modify the exemption to provide for cargo vessel as an additional mode of transportation.

(5) To modify exemption to provide for an alternative packaging consisting of 2 one-gallon metal containers not to exceed 25 pounds total weight for use in transporting calcium carbide, classed as flammable solid.

(6) To authorize an additional design non-DOT specification polyethylene portable tank and to provide for shipment of organochlorine pesticides liquid, toxic, n.o.s. division 6.1 as an additional commodity.

(7) To modify exemption to provide for a half liter non-DOT specification insulated cylinder for use in transporting nonflammable gas.

(8) To modify exemption to provide for optional alcohol and 5% water solution in mixtures of explosives for transportation in specifically designed packaging.

Application No.	Applicant	Parties to exemption
7835–P	T.W. Smith Corp., Brooklyn, NY.	7835
7835–P	Voltaix, Inc., North Branch, NJ.	7835
8009–P	FleetStar, Inc., Austin, TX	8009
8236–P	Cass River Coatings, Inc., Vassar, MI.	8236
8450–P	Loral Vought Systems Corporation, Dallas, TX (See Footnote 1).	8450
8451–P	Loral Vought Systems, Dallas, TX.	8451
8845–P	Pengo Wireline of California, Inc., Bakersfield, CA.	8845
8944–P	Advanced Silicon Materials, Inc., Moses Lake, WA.	8944
9222–P	Wills Trucking, Inc., Richfield, OH.	9222
9275–P	Indopco, Inc., Mount Olive, NJ.	9275
9769–P	California Advanced Environmental Technology Corp., Hayward, CA.	9769
9781–P	Brights Associates, Inc., Tonawanda, NY.	9781
10193–P ...	Stolt Tank Containers, Inc., Monrovia, Liberia.	10193
10441–P ...	Rinchem Company, Inc., Albuquerque, NM.	10441

(1) To authorize party status and modify exemption to provide for an optional larger wooden overpack container for use in transporting rocket motors without igniters.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 9, 1992.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 92–30464 Filed 12–15–92; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 9, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220

Internal Revenue Service

OMB Number: 1545–0820.
Regulation ID Number: EE–86–88 NPRM (Previously LR–279–81).
Type of Review: Extension.
Title: Incentive Stock Options.
Description: The affected public includes corporations that transfer stock to employees after 1979 pursuant to the exercise of a statutory stock option. The corporation must furnish the employee receiving the stock with a written statement describing the transfer. The statement will assist the employee in filing their tax returns.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 50,000.
Estimated Burden Hours Per Respondent: 20 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 16,650 hours.

OMB Number: 1545–0884.
Form Number: IRS Form 8279.
Type of Review: Extension.
Title: Election to be Treated as a FSC or as a Small FSC.
Description: A foreign corporation and its shareholders must elect to be a Foreign Sales Corporation (FSC) or small FSC. Form 8279 is used to make the election. Form 8279 provides IRS with the necessary information to determine that the foreign corporation qualifies to be a FSC, number and types of shareholders, and tax year of the FSC and its principal shareholders.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 5,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—4 hours, 32 minutes.
Learning about the law or the form—1 hour, 29 minutes.
Preparing and sending the form to the IRS—1 hour, 38 minutes.
Frequency of Response: Other (one-time election).
Estimated Total Reporting/ Recordkeeping Burden: 38,300 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building; Washington, DC 20503.

Lois K. Holland,

Deartmental Reports Management Officer.

[FR Doc. 92–30463 Filed 12–15–92; 8:45 am]

BILLING CODE 4830–01–M

Customs Service

[T.D. 92–116]

Approval of Inert Gas Services, Inc. as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Approval of Inert Gas Services, Inc. as a Commercial Gauger.

SUMMARY: Inert Gas Services, Inc. of Pasadena, Texas applied to Customs for approval to gauge imported petroleum, petroleum products, organic chemicals and vegetable and animal oils under Part 151.13 of the Customs Regulations (19 CFR 151.13). Customs has determined that Inert Gas Services, Inc. meets all of the requirements for approval as a commercial gauger.

Therefore, in accordance with Part 151.13(f) of the Customs Regulations Inert Gas Services, Inc., 109 N. Richey, Pasadena, Texas 77506 is approved to gauge the products named above in all Customs districts.

EFFECTIVE DATE: December 7, 1992.

FOR FURTHER INFORMATION CONTACT:
Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202) 927–1060).

Dated: December 8, 1992.

J.E. Harrell,

Acting Director, Office of Laboratories and Scientific Services.

[FR Doc. 92–30507 Filed 12–15–92; 8:45 am]

BILLING CODE 4810–33–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 242
Wednesday, December 16, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, December 22, 1992.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: The first two items are open to the public. The last item is closed to the public under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

5925—Hazardous Materials Special Investigation Report: Inspection and Testing of Railroad Tank Cars.
5929—Notice of Proposed Rulemaking: Civil Penalty Adjudications: Rules of Procedures.
5912—Opinion and Order: Administrator v. Frohmuth and Dworak, Dockets SE-11096 and 11097; disposition of Administrator's appeal.

NEWS MEDIA CONTACT: Telephone (202) 382-0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: December 11, 1992.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 92-30585 Filed 12-14-92; 3:09 pm]

BILLING CODE 7533-01-M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

PLACE: Uniformed Services University of the Health Sciences, room A1005, 4301 Jones Bridge Road, Bethesda, Maryland 20814-4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

9:00 a.m. Meeting—Board of Regents.

(1) Approval of Minutes—November 2, 1992; (2) Faculty Matters; (3) Departmental Reports; (4) Financial Report; (5) Report—President, USUHS; (6) Comments—Members, Board of Regents; (7) Comments—Chairman, Board of Regents; (8) Reports of Subcommittees on Planning and Oversight; New Business.

CONTACT PERSON FOR MORE INFORMATION: David S. Trump, M.D., Executive Secretary of the Board of Regents, 301/295-3886.

Dated: December 14, 1992.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-30656 Filed 12-14-92; 3:08 pm]

BILLING CODE 3810-01-M

federal register

Wednesday
December 16, 1992

Part II

Department of Education

34 CFR Part 5b

Privacy Act Regulations; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 5b

RIN 1801–AA06

Privacy Act Regulations

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Department's regulations implementing the Privacy Act of 1974 (the Act), 5 U.S.C. 552a. These amendments are needed to modify existing Department regulations (34 CFR 5b.11) exempting the system of records known as the Investigative Files of the Inspector General ED/OIG (System No. 18–10–0001) from certain provisions of the Act and corresponding departmental regulations.

DATES: Comments must be received on or before February 16, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Thomas D. Strong, U.S. Department of Education, 400 Maryland Avenue, SW., room 4117, Washington, DC 20202–1510.

FOR FURTHER INFORMATION CONTACT: Thomas D. Strong. Telephone: (202) 732–4762. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The proposed amendments would add exemptions authorized by the Act, 5 U.S.C. 552a(j)(2), to those that are currently in place for the ED/OIG Investigative Files system of records under the "(j)(2)" exemption. Under subsection (j)(2) of the Act, the Secretary of Education, through rulemaking, may exempt those systems of records maintained by a component of the Department that performs as its principal function any activity pertaining to the enforcement of criminal laws from certain provisions of the Act, if the system of records is used for certain law enforcement purposes.

The Office of Inspector General (OIG) is a component of the Department that performs as one of its principal functions investigations into violations of criminal law in connection with the Department's programs and operations, pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, and the Investigative Files system of records falls within the scope of subsection (j)(2); *i.e.*, information compiled for the purpose of criminal investigation, reports relating to any stage of the enforcement process, and information compiled for the identification of individual criminals. In addition, the proposed amendments would add exemptions authorized by the Act, 5 U.S.C. 552a(k)(2), for those investigatory materials in the system that may be deemed to relate primarily to civil and administrative law enforcement (the "(k)(2)" exemptions).

The additional proposed (j)(2) exemptions for criminal law enforcement records would remove restrictions on the manner in which information may be collected and the type of information that may be collected by OIG investigators in the course of a criminal investigation, would limit certain notice requirements, and would exempt the system of records from civil remedies for violations of the Act. These additional exemptions are necessary primarily to avoid premature disclosures of sensitive information, including, but not limited to, the existence of a criminal investigation, that may compromise or impede the investigation.

The proposal to add (k)(2) exemptions reflects recognition that certain records in the system may be deemed to fall outside the (j)(2) exemption (because they were collected primarily for civil and administrative law enforcement, such as investigations of Department employees' violations of the Standards of Conduct). Nevertheless, the Act recognizes that these records might also properly be exempted from certain disclosure and notice requirements as well as restrictions on the manner in which an investigator may collect information, in order to avoid compromising, impeding, or interfering with those investigations.

A more complete explanation of each proposed exemption follows, as required by the Act.

The Secretary proposes the following changes to the current exemptions contained in 34 CFR 5b.11.

A. Exemptions Pursant to (j)(2)

The Secretary has determined that the OIG Investigative Files should be exempt from the following provisions of the Privacy Act and corresponding departmental regulations, in addition to the exemptions already in place. These exemptions are necessary and appropriate to maintain the integrity and confidentiality of criminal investigations.

1. Expansion of the (j)(2) Exemption

Expansion of the (j)(2) exemption to cover the following Privacy Act provisions is being proposed for the following reasons:

(a) 5 U.S.C. 552a(c)(4), *duty to inform outside parties of correction of and notation of dispute about information in system in accordance with subsection (d) of the Privacy Act:* Since this system of records is already exempted from the access provisions of subsection (d) of the Privacy Act, this section is not properly applicable.

(b) 5 U.S.C. 552a(e)(1), *duty to maintain in agency records only "relevant and necessary" information about an individual:* This provision is inappropriate for criminal investigations, because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear. In other cases, what may appear to be a relevant and necessary piece of information may become irrelevant in light of further investigation.

In addition, during the course of an investigation, the investigator may obtain information that relates primarily to matters under the investigative jurisdiction of another agency (*e.g.*, the fraudulent use of Social Security numbers), and that information may not be reasonably segregated. In the interest of effective law enforcement, OIG investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(c) 5 U.S.C. 552a(e)(2), *collection of information from the subject individual:* The general rule that information be collected "to the greatest extent practicable" from the target individual is not appropriate in criminal investigations. OIG investigators should be authorized to use their professional judgment as to the appropriate sources and timing of an investigation. Often it is necessary to conduct an investigation so that the target does not suspect that he or she is being investigated. The requirement to obtain the information from the targeted individual may put the suspect on notice of the investigation and thereby thwart the investigation by enabling the suspect to destroy evidence and take other action that would impede the investigation. This requirement may also in some cases preclude an OIG investigator from gathering information and evidence before interviewing an investigative target in order to maximize the value of the interview by confronting the target with the evidence or information.

In addition, the statutory term "to the greatest extent practicable" is a subjective standard, and it is impossible adequately to define the term so that individual OIG investigators can consistently apply it to the many fact patterns presented in OIG investigations.

(d) 5 U.S.C. 552a(e)(3), *Privacy Act notice in the collection of information from individuals; deletion of inappropriate qualifying language:* As the regulations currently read, OIG investigators are exempt from giving notice (containing the authority for information collection, principal purpose, routine uses, and effect of refusal to provide information) to those from whom it collects information in the conduct of criminal investigations, but only "to the extent these requirements would prejudice the conduct of the investigation." Thus, the Department's regulations already recognize that as a general rule this exemption is necessary and appropriate for OIG investigative files.

It is ill-advised and impractical to have regulatory language that could be read as requiring investigative personnel to make a case-by-case determination as to whether in fact giving a Privacy Act notice will have a prejudicial effect on the investigation each time they interview a witness or collect documents. This is a determination that cannot always be made accurately in advance of an interview or request for documents, and the Privacy Act does not require such an impractical case-by-case assessment for the exemption to apply.

(e) 5 U.S.C. 552a(e)(4)(I), *duty to publish notice of the categories of sources of records in the system:* To the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information, to protect privacy and physical safety of witnesses and informants, and to avoid the disclosure of investigative techniques and procedures. OIG will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(f) 5 U.S.C. 552a(e)(5), *duty to maintain records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness:* Much the same rationale is applicable to this proposed exemption as that set out previously in item (b) (duty to maintain in agency records only "relevant and necessary" information about an individual). While the OIG makes every effort to maintain records that are accurate, relevant, timely, and complete, it is not always possible in a criminal investigation to determine with certainty that all the information collected is accurate, relevant, timely, and complete. During a thorough investigation, a trained investigator would be expected to collect allegations, conflicting information, and information that may not be based upon the personal knowledge of the provider. At the point of determination by OIG to refer the matter to a prosecutive agency, for example, that information would be in the system of records, and it may not be possible until further investigation is conducted, or indeed in many cases until after a trial (if at all), to determine the accuracy, relevance, and completeness of some information. This requirement would inhibit the ability of trained investigators to exercise professional judgment in conducting a thorough investigation. Moreover, fairness to affected individuals is assured by the due process they are accorded in any trial or other proceeding resulting from the OIG investigation.

(g) 5 U.S.C. 552a(e)(8), *duty to make reasonable efforts to serve notice on an individual when any record on such individual is made available under compulsory legal process when such process becomes a matter of public record:* Compliance with this provision could prematurely reveal and compromise an ongoing criminal investigation to the target of the investigation and reveal techniques, procedures, or evidence.

(h) 5 U.S.C. 552a(g), *exemption from civil remedies:* Allowing civil lawsuits for alleged Privacy Act violations by OIG investigators would compromise OIG investigations by subjecting the sensitive and confidential information in the ED/OIG Investigative Files to the possibility of inappropriate disclosure under the liberal civil discovery rules. That discovery may reveal confidential sources, the identity of informants, and investigative procedures and techniques, to the detriment of the particular criminal investigation as well as other investigations conducted by OIG.

The pendency of such a suit would have a chilling effect on investigations, given the possibility of discovery of the contents of the investigative case file, and a Privacy Act lawsuit could therefore become a ready strategic weapon used to impede OIG investigations. Furthermore, since, under the current and proposed regulations, the system would be exempt from many of the Act's requirements, it is unnecessary and contradictory to provide for civil remedies from violations of those provisions in particular.

This exemption in no way detracts from OIG's commitment to meet all its legal obligations under the Privacy Act.

B. Exemptions Pursuant to (k)(2)

Since the Inspector General Act requires the OIG to uncover not only fraud but also waste and abuse, some of the records in the ED/OIG Investigative Files pertain to individuals investigated primarily for non-criminal violations for purposes of civil or administrative action or both. Accordingly, the Secretary has determined that the ED/OIG Investigative Files should also be subject to the exemptions authorized under (k)(2) to the extent that the system contains investigatory material compiled primarily for purposes not within the scope of the (j)(2) exemption. The system would thus be exempt from sections 552a(c)(3), (d) (1) through (4), (e)(1), (e)(4) (G), (H) and (I), and (f), and corresponding Department regulations.

The Secretary proposes to adopt these exemptions for the following reasons:

(a) 5 U.S.C. 552a(c)(3), *duty to grant access to an accounting of disclosures of a record:* Granting access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure of a record and the identity of the recipient, could alert the subject of a civil investigation to its existence and nature and reveal investigative or prosecutive interest by other agencies, particularly in a joint-investigation situation. This could seriously impede or compromise the investigation and case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate with the investigators; and lead to suppression, alteration, or destruction of evidence.

(b) 5 U.S.C. 552a(d) (1) through (4) and (f), *duty to provide access to records, make corrections and amendments to records, and to notify individuals of existence of records upon their request:* Providing individuals with access to records of a civil investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing the access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow

interference with or compromise of witnesses or render witnesses reluctant to cooperate with investigators; lead to suppression, alteration, or destruction of evidence; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy the Government's civil claims growing out of the investigation.

(c) 5 U.S.C. 552a(e)(1), *duty to maintain in agency records only "relevant and necessary information about an individual":* The rationale for this exemption is the same as that stated previously with respect to the criminal law enforcement investigations under (j)(2) of the Privacy Act, and that explanation is incorporated herein by reference.

(d) 5 U.S.C. 552a(e)(4)(G) and (H), *duty to publish notice of notification, access, amendment, and correction procedures for the system of records:* There is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(e) 5 U.S.C. 552a(e)(4)(I), *duty to publish notice of the categories of sources of records in the system:* The rationale for this exemption is the same as that stated previously with respect to criminal investigations under (j)(2) of the Privacy Act, and that explanation is incorporated herein by reference.

The Secretary also proposes technical changes to the way exemptions are described in 34 CFR 5b.11. These technical changes are designed to facilitate a determination of which exemptions are applicable to which systems of records. Further, exemptions are broken out separately depending upon whether the basis for the exemption is section 552a(j) or (k).

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

These proposed regulations involve procedural rights of individuals under the Privacy Act, and economic impact under the Regulatory Flexibility Act is not at stake.

Paperwork Reduction Act of 1980

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4022 Switzer Building, 330 C Street S.W., Washington D.C., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Part 5b

Administrative practice and procedures, Education Department, Privacy.

Dated: December 10, 1992.

Lamar Alexander,

Secretary of Education.

(Catalogue of Federal Domestic Assistance Number does not apply.)

The Secretary proposes to amend part 5b of Title 34 of the Code of Federal Regulations as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. The authority citation for part 5b continues to read as follows:

Authority: 5 U.S.C. 301 and 5 U.S.C. 552a, unless otherwise noted.

2. Section 5b.11 is revised to read as follows:

§ 5b.11 Exempt systems.

(a) *General policy.* The Act permits an agency to exempt certain types of systems of records from some of the Act's requirements. It is the policy of the Department to exercise authority to exempt systems of records only in compelling cases.

(b) *Specific systems of records exempted under (j)(2).* The Department exempts the Investigative Files of the Inspector General ED/OIG (18–10–0001) system of records from the following provisions of 5 U.S.C. 552a and this part:

(1) 5 U.S.C. 552a(c)(3) and § 5b.9(a)(1) and (c)(3) of this part, regarding access to an accounting of disclosures of a record.

(2) 5 U.S.C 552a(c)(4) and §§ 5b.7(c) and 5b.8(b) of this part, regarding notification to outside parties and agencies of correction or notation of dispute made in accordance with 5 U.S.C. 552a(d).

(3) 5 U.S.C. 552a(d)(1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification or access to records and correction or amendment of records.

(4) 5 U.S.C. 552a(e)(1) and § 5b.4(a)(1) of this part, regarding maintaining only relevant and necessary information.

(5) 5 U.S.C. 552a(e)(2) and § 5b.4(a)(2) of this part, regarding collection of information from the subject individual.

(6) 5 U.S.C. 552a(e)(3) and § 5b.4(a)(3) of this part, regarding notice to individuals asked to provide a record to the Department.

(7) 5 U.S.C. 552a(e)(4)(G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

(8) 5 U.S.C. 552a(e)(5), regarding maintaining records with requisite accuracy, relevance, timeliness, and completeness.

(9) 5 U.S.C. 552a(e)(8), regarding service of notice on subject individual if a record is made available under compulsory legal process if that process becomes a matter of public record.

(10) 5 U.S.C 552a(g), regarding civil remedies for violation of the Privacy Act.

(c) *Specific systems of records exempted under (k)(2).* (1) The Department exempts the Investigative Files of the Inspector General ED/OIG (18–10–0001) from the following provisions of 5 U.S.C. 552a and this part to the extent that the system of records consists of investigatory material compiled for law enforcement purposes:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d)(1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(1) and § 5b.4(a)(1) of this part, regarding the requirement to maintain only relevant and necessary information.

(iv) 5 U.S.C. 552a(e)(4)(G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

(2) The Department exempts the Complaint Files and Log, Office for Civil Rights (18–08–0002) from the following provisions of 5 U.S.C. 552a and this part:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d)(1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and

5b.8 of this part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(4)(G) and (H), regarding inclusion of information in the system notice about procedures for notification, access, and correction of records.

(d) *Specific systems of records exempted under (k)(5).* (1) The Department exempts the Investigatory Material Compiled for Personnel Security and Suitability Purposes (18–10–0002) system of records from the following provisions of 5 U.S.C. 552a and this part:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d)(1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(4)(G) and (H), regarding inclusion of information in the system notice about procedures for notification, access, and correction of records.

(2) The Department exempts the Suitability for Employment Records (18–11–0020) from the following provisions of 5 U.S.C. 552a and this part:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d)(1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(4)(G) and (H), regarding inclusion of information in the system notice about procedures for notification, access, and correction of records.

(e) *Basis for exemptions taken under (j)(2), (k)(2), and (k)(5).* The reason the Department took each exemption described in this section is stated in the preamble for the final rulemaking document under which the exemption was promulgated. These final rulemaking documents were published in the **Federal Register** and may be obtained from the Department of Education by mailing a request to the following address: U.S. Department of Education, Privacy Act Officer, Information Management Branch, Washington, DC 20202–4753.

(f) *Notification of or access to records in exempt systems of records.* (1) If a system of records is exempt under this section, an individual may nonetheless request notification of or access to a record in that system. An individual shall make requests for notification of or access to a record in an exempt system or records in accordance with the procedures of § 5b.5 of this part.

(2) An individual will be granted notification of or access to a record in an exempt system but only to the extent that notification or access would not reveal the identity of a source who furnished the record to the Department under an express promise, and, prior to September 27, 1975, an implied promise, that his identity would be held in confidence if—

(i) The record is in a system of records or that portion of a system of records that is exempt under subsection (k)(2), but not under subsection (j)(2), of the Act and the individual has been, as a result of the maintenance of the record, denied a right, privilege, or benefit to which he or she would otherwise be eligible; or

(ii) The record is in a system of records that is exempt under subsection (k)(5) of the Act.

(3) If an individual is not granted notification of or access to a record in a system of records exempt under subsections (k)(2) (but not under subsection (j)(2)) and (k)(5) of the Act in accordance with this paragraph, he or she will be informed that the identity of a confidential source would be revealed if notification of or access to the record were granted to the individual.

(g) *Discretionary actions by the responsible Department official.* Unless disclosure of a record to the general public is otherwise prohibited by law, the responsible Department official may, in his or her discretion, grant notification of or access to a record in a system of records that is exempt under this section. Discretionary notification of or access to a record in accordance with this paragraph will not be a precedent for discretionary notification of or access to a similar or related record and will not obligate the responsible Department official to exercise his or her discretion to grant notification of or access to any other record in a system of records that is exempt under this section.

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Wednesday
December 16, 1992

Part III

Department of Justice

Federal Prison Industries, Inc.
Bureau of Prisons

28 CFR Part 345 and 545
UNICOR Inmate Work Programs;
Proposed Rule

DEPARTMENT OF JUSTICE

Federal Prison Industries, Inc.

28 CFR Part 345

Bureau of Prisons

28 CFR Part 545

RIN 1120–AA04

UNICOR Inmate Work Programs

AGENCY: Federal Prison Industries, Inc., Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to revise and reorganize its rule on UNICOR Inmate Work Programs. This proposed rule revises, and codifies into one part, the existing provisions on inmate hiring procedures, pay, and scholarship and incentive awards programs. It updates Bureau policy by adding provisions on position classification and recruitment, physical and medical work limitations, inmate worker standards, performance appraisal, dismissal procedures, benefit retention, and training programs. The intent of this proposal is to enable the Bureau to continue to employ and train inmates in a manner that will assist the inmate in post-release employment.

DATES: Comments due by February 1, 1993.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on UNICOR Inmate Work Programs. UNICOR is the commercial or "trade" name of Federal Prison Industries, Inc. (FPI). FPI, a component of the Bureau of Prisons, is a wholly owned government corporation whose mission is to provide institution work assignments and training opportunities for inmates confined in Federal correctional facilities. Final rules on the provisions comprising UNICOR Inmate Work Programs had previously been published in the **Federal Register** as follows: Inmate Pay on September 30, 1983 (48 FR 45047) and amended on March 27, 1990 (55 FR 11326) and April 19, 1990 (55 FR 14917), Scholarship Program on May 1, 1981 (46 FR 24900), Inmate Hiring Procedures on July 1, 1981 (46 FR 34549), and Incentive Awards Program on August 31, 1981 (46 FR 43810).

Existing regulations on UNICOR Inmate Pay are codified in 28 CFR part 345. This proposed rule reorganizes the existing provisions, simplifies the inmate pay provisions (new §§ 345.50 through 345.63) by removing tables of pay rates and various examples of pay rate calculations, adds provisions relating to position classification (new § 345.20), physical and medical work limitations (new §§ 345.64 and 65), benefit retention provisions (new § 345.66), and expands provisions related to assignment to UNICOR work status (new § 345.35).

Existing regulations on UNICOR Inmate Hiring Procedures are codified in 28 CFR part 545, subpart F. These provisions are revised and expanded upon in § 345.30 and §§ 345.32 through 345.34, and include new provisions on recruitment procedures (§ 345.31), inmate worker standards and performance appraisal (§§ 345.40 and 345.41), and inmate worker dismissal (§ 345.42).

Existing regulations on the Scholarship Program are codified in 28 CFR part 545, subpart E. These provisions are revised and expanded upon in § 345.84. As proposed, these provisions specify that an inmate maintain a verifiable average of "C" or better to maintain program eligibility.

Existing regulations on UNICOR Incentive Awards Program are codified in 28 CFR part 545, subpart G. These provisions are revised and expanded upon in §§ 345.73 and 345.74.

This proposed rule contains new provisions relating to inmate training (§§ 345.80 through 345.83).

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street, NW., HOLC room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects

28 CFR Part 345

Inventions and patents, Prisoners, Scholarships and fellowships.

28 CFR Part 545

Prisoners.

Dated: December 9, 1992.

Kathleen M. Hawk,

Director, Bureau of Prisons, and Commissioner of Federal Prison Industries.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), it is proposed to revise part 345 in chapter III of 28 CFR, and to amend part 545 in subchapter C of 28 CFR, chapter V as set forth below.

1. 28 CFR part 345 is revised to read as follows:

PART 345—UNICOR INMATE WORK PROGRAMS

Subpart A—General

Sec.

Subpart B—Classification

Subpart C—Recruitment and Hiring

Subpart D—Standards and Performance Appraisal

Subpart E—Pay and Benefits

Subpart F—Awards

Authority: 18 U.S.C. 4126, 28 CFR 0.99, and by resolution of the Board of Directors of Federal Prison Industries, Inc.

Subpart A—General

§ 345.10 Purpose and Scope.

It is the policy of Federal Prison Industries, Inc. to provide work to inmates confined in a Federal institution. This work is designed to allow inmates the opportunity to acquire the knowledge, skills, and work habits which will be useful when released from the institution. There is no requirement that inmates be paid for work in an industrial assignment. 18 U.S.C. 4126, however, provides for discretionary compensation to inmates working in Industries. Under this authority, inmates of the same grade jobs, regardless of the basis of pay (hourly, group piece, or individual piece rates) shall receive approximately the same compensation. All pay rates under this part are established at the discretion of Federal Prison Industries, Inc. Any alteration or termination of the rates shall require the approval of the Federal Prison Industries Board of Directors. While the Warden is responsible for the local administration of Inmate Industrial Payroll regulations, no pay system is initiated or changed without prior approval of the Assistant Director of Federal Prison Industries, Inc.

§ 345.11 Definitions.

(a) *Federal Prison Industries, Inc. (FPI)*—A wholly-owned government corporation established by Congress in 1934 whose mission is to provide work programs and training opportunities for inmates confined in Federal correctional facilities. Hereinafter, referred to as FPI.

(b) *UNICOR*—The commercial or "trade" name of Federal Prison Industries, Inc. Most factories or shops of Federal Prison Industries, Inc. are commonly referred to as "UNICOR" or as "Industries". Where these terms are used, they refer to FPI production locations and to the corporation as a whole. UNICOR, FPI, and Industries are used interchangeably in this manner.

(c) *Federal Prison Industries Board of Directors*—A presidentially appointed board of six directors who serve the corporation at the will of the President and without compensation.

(d) *Superintendent of Industries (SOI)*, also referred to as Associate Warden/ Industries and Education, is responsible for the efficient management and operation of an FPI factory. Hereinafter, referred to as SOI.

(e) *Unit Team*—Bureau of Prisons staff responsible for the management of inmates and the delivery of programs and services. The Unit Team may consist of a unit manager, case manager, correctional counselor, unit secretary, unit officer, education representative, and psychologist.

(f) *Unit Discipline Committee (UDC)*—The term Unit Discipline Committee refers to one or more institution staff members delegated by the Warden with the authority and duty to hold an initial hearing upon completion of the investigation concerning alleged charge(s) of inmate misconduct (see 28 CFR 541.15). The Warden shall authorize these staff members to impose minor sanctions for violation of prohibited act(s).

(g) *Discipline Hearing Officer (DHO)*—This term refers to an independent discipline hearing officer who is responsible for conducting institution Discipline Hearings and who imposes appropriate sanctions for incidents of inmate misconduct referred for disposition following the hearing required by 28 CFR 541.15 before the UDC.

Subpart B—Classification

§ 345.20 Position classification.

(a) Inmate worker positions must be assigned an appropriate level of pay. All inmate workers shall be informed of the objectives and principles of pay classification as a part of the routine orientation of new FPI inmate workers.

(b) The Warden and SOI have the responsibility for position classification at each location.

Subpart C—Recruitment and Hiring

§ 345.31 Recruitment.

Inmate workers for FPI locations may be recruited through admission and orientation lectures or through direct recruiting.

§ 345.32 Hiring.

(a) Inmate workers may be hired through waiting lists. Except as noted in § 345.33, inmates are to be placed on the waiting lists in order of receipt of applications for work with Industries, and are to be hired in the same sequence.

(b) Waiting lists are to be maintained and kept available for scrutiny by auditors and other staff with a need to know. SOIs are encouraged to maintain a waiting list for each FPI factory.

§ 345.33 Waiting list hiring exceptions.

(a) *Needed Skills.* An inmate may be hired ahead of other inmates on the waiting list if he/she possesses needed skills and the SOI documents the reasons for the action in the position classification files.

(b) *Prior FPI Work Assignment.* An inmate with prior FPI work experience during the inmate's current commitment and with no break in custody will ordinarily be placed within the top ten percent of the waiting lists unless the inmate voluntarily left the FPI work assignment for non-program reasons; i.e. for some reason other than formal education, vocational training, drug abuses or similar formal programs. For example, an inmate transferred administratively for nondisciplinary reasons, and who has documented credit as a prior worker, is covered under the provisions of this paragraph.

(c) *Industry Closing and Relocation.* When an FPI factory closes in a location with two or more factories, an inmate worker affected may be transferred to remaining factories ahead of the top portion of the inmates on the waiting lists, so there is no break in active duty with FPI. Such actions are also in order where the work force of an industry is reduced to meet institution or FPI needs. An inmate transferred under the provisions of this part will have the same rights as any intra-industry transfer.

(d) *Disciplinary Transfers.* An inmate who is a disciplinary transfer from the last institution designated and who wishes re-assignment in FPI at the receiving institution may be hired on a case-by-case basis at the discretion of the SOI, who should consider the security level and reasons for the misconduct. Such an inmate, despite prior experience, is not due special placement on the waiting list, is not given advance hiring preference, and does not receive consideration for accelerated promotion back to the grade held at the time of transfer.

(e) *Inmate Financial Responsibility Program Assignment.* The unit team may recommend an inmate for priority placement on the waiting list to assist in paying a significant financial obligation.

§ 345.34 Refusal to employ.

(a) The SOI has authority to refuse an FPI assignment to an inmate who, in the judgment of the SOI, would constitute a serious threat to the orderly and safe

operation of the factory. A refusal to assign must be documented by a memorandum to the unit team listing reasons for the refusal, with a copy to the position classification files in FPI. Typically, the reasons should include other earlier (ordinarily within the past twelve months) documented violations of the FPI inmate worker standards or institution disciplinary regulations.

(b) The refusal to assign is to be rescinded when, in the judgment of the SOI, the worker no longer constitutes a serious threat to the industrial operation.

§ 345.35 Assignments to FPI.

The inmate's unit team assigns the inmate to FPI with the SOI's concurrence.

(a) Any request by an inmate for consideration must be made through the unit team. All inmates may be considered for assignment with FPI. FPI does not discriminate on the basis of race, color, religion, ethnic origin, age, or physical handicap.

(b) New workers are ordinarily assigned at pay grade five. All first time inmate workers shall enter at pay grade five and may be required to successfully complete a course in pre-industrial training or on-the-job training (as available) before promotion to pay grade four.

(c) An inmate who has not successfully completed pre-industrial or on-the-job training remains at pay grade five for at least 30 days.

(d) An inmate hired after having resigned voluntarily from FPI may be excused from pre-industrial training and may be hired at a pay grade based on previous training and experience.

Subpart D—Standards and Performance Appraisal

§ 345.40 Inmate worker standards and performance appraisal—general.

This subpart establishes minimum work standards for inmate workers assigned to the Industries program at all field locations. The SOI may reproduce these standards and may also develop additional local guidelines to augment these standards and to adapt them to local needs and conditions. Local Industries shall place these standards and any additional local guidelines on display at appropriate locations within the industrial sites. Inmates shall be provided with a copy of these standards and local guidelines, and shall sign receipts acknowledging they have received and understand them before beginning work in the Industries program.

(a) At a minimum, each industrial location is to have work standards for each of the following areas:

(1) Safety—ensuring the promotion of workplace safety and the avoidance of activities that could result in injury to self or others.

(2) Quality Assurance—ensuring that work is done as directed by the supervisor in an attentive manner so as to minimize the chance of error.

(3) Personal Conduct and Hygiene—ensuring the promotion of harmony and sanitary conditions in the workplace through observation of good hygiene and full cooperation with other inmate workers, work supervisors, and training staff.

(4) Punctuality and Productivity—ensuring the productive and efficient use of time while the inmate is on work assignment or in training.

(b) *Compliance With Work Standards.* Each inmate assigned to FPI shall comply with all work standards pertaining to his or her work assignment. Adherence to the standards should be considered in evaluating the inmate's work performance and documented in individual hiring, retention, and promotion/demotion situations.

§ 345.41 Performance appraisal for inmate workers.

Work supervisors should complete a performance appraisal form for each inmate semi-annually, by March 31 and September 30, or upon termination or transfer from the industrial work assignment. Copies shall be sent to the unit team. Inmate workers should discuss their appraisals with their supervisors at a mutually agreeable time in order to improve their performance. Satisfactory and unsatisfactory performance ratings shall be based on the standards in § 345.40(a).

(a) The SOI is to ensure that evaluations are done and are submitted to unit teams in a timely manner.

(b) The SOI or a designee may promote an inmate to a higher grade level if an opening exists when the inmate's skills, abilities, qualifications, and work performance are sufficiently developed to enable the inmate to carry out a more complex factory assignment successfully, and when the inmate has abided by the inmate worker standards. Conversely, the SOI or SOI designee may demote an inmate worker for failing to abide by the inmate worker standards. Such demotions shall be fully documented.

§ 345.42 Inmate worker dismissal.

The SOI may remove an inmate from Industries work status in cooperation with the unit team.

(a) The SOI may remove an inmate from FPI work status according to the conditions outlined in the pay and benefits section of this policy and in cooperation with the unit team.

(b) An inmate may be removed from FPI work status for failure to comply with any court-mandated financial responsibility. (See 28 CFR 545.11(d)).

(c) An inmate found to have committed a prohibited act (whether or not it is FPI related) resulting in segregation or disciplinary transfer is also to be dismissed from Industries based on an unsatisfactory performance rating for failure to be at work.

Subpart E—Pay and Benefits

§ 345.50 Inmate pay and benefits—general.

It is the policy of FPI to provide compensation to FPI inmate workers through various conditions of pay and benefits. Title 18 U.S. Code section 4126 authorizes FPI to compensate inmates under rules and regulations promulgated by the Attorney General. The following items define terms frequently used in this section.

(a) *Full Time Work Status.* A work schedule for an inmate consisting of 90% or more of the normal factory work week.

(b) *Part Time Work Status.* A work schedule of less than 90% of the normal factory work week.

(c) *FPI Work Status.* Assignment to an Industries work detail.

(1) An inmate shall accrue vacation time, longevity service credit, and shall receive holiday pay for the period of time the inmate is officially assigned to the Industries work detail, provided claims for such pay and/or benefits occur within one calendar year of the period of time for which the claim is made. Inmate claims submitted more than one year after the time in question require the approval of the Assistant Director before an inmate may receive such pay and/or benefits.

(2) An inmate in FPI work status may be on the job, on furlough, vacation, medical idle for FPI work-related injury, or in administrative detention. An inmate on sick call, however, is not considered to be in FPI work status.

(3) FPI pay and benefits are lost in cases of disciplinary transfer and segregation.

(4) An inmate returned to the institution due to program failure at a Community Corrections Center or while on parole or escape is not entitled to credit for time spent in Industries prior to said program failure. This rule also applies to any other program failure which results in a break in confinement status.

§ 345.51 Inmate pay.

Inmate workers in FPI locations receive pay at five levels ranging from 5th grade pay (lowest) to 1st grade pay (highest). Time in grade requirements are covered in the section on performance appraisal. Inmate workers may be eligible for premium pay as specified in § 345.52.

§ 345.52 Premium pay.

Payment of premium pay to selected inmates is authorized. The total number of qualifying inmates may not exceed 15% of first grade inmates at a location.

(a) *Eligibility.* Inmates in first grade pay status may be considered for premium pay.

(b) *The Selection Process.* Candidates for premium pay must be nominated by a foreman on the FPI staff, and recommended on the basis of specific criteria by a selection committee assigned by the SOI.

(1) The SOI, as chief selecting official, must sign approval for all premium pay inmate selections. This authority may not be delegated below the level of Acting SOI.

(2) The selected candidate(s) are notified by the FPI Manager or by a posted list on the FPI bulletin board. A record of the selection and who was on the selection board is kept for documentation purposes. An inmate nominated to be a premium pay inmate may refuse the appointment without prejudice.

(c) [Reserved]

(d) *Pay Rate.* Premium pay inmates receive a specified amount over and above all other pay and benefits to which they may be entitled (e.g., longevity pay, overtime, piecework rates, etc.). Premium pay is also paid for vacation, holiday, and administrative hours.

(e) *Duties of Premium Pay Inmates.* Premium pay status is not a form of bonus or incentive pay for high producing inmates. It is recognition by staff of the value of the leadership and citizenship traits displayed by the inmate in helping to assure factory operations proceed smoothly.

(f) *Transfer Status Of Premium Pay Inmates.* Premium pay status may not be transferred from institution to institution with the inmate worker. Premium pay status must be earned at each location.

(g) *Removals From Premium Pay Status.* Removal from premium pay status may occur for failure to demonstrate the premium pay selection traits or for failure to abide by the inmate worker standards set forth in this policy. All removals from premium pay status shall be documented on the inmate's evaluation form. The following conditions also may result in removal from premium pay status:

(1) Any premium pay inmate found to have committed any level 100 or 200 series offense by the DHO is automatically removed from premium pay status whether or not the offense was FPI related.

(2) Inmates absent from work for more than 30 consecutive calendar days may be removed from premium pay status by the SOI.

§ 345.53 Piecework rates.

Piecework rates are incentives for workers to strive for higher pay and production benefiting both the worker and FPI. Piecework rates may be of two major types: Individual piecework (in which an individual's pay goes up or down depending upon his/her own output) or Group Wage Fund (in which all members of a group strive for higher rates or production output as a unit, and all share in a pool of funds distributed among work group members equally).

§ 345.54 Overtime compensation.

An inmate worker is entitled to overtime pay at a rate of two times the hourly or unit rate for hourly, individual, and group piecework rate employees when the total hours worked (including administrative pay) exceed the factory's regularly scheduled workday. Hours worked on days other than the scheduled work week (e.g., Saturday) shall be compensated at the overtime rate.

§ 345.55 Longevity pay.

(a) Except as provided in paragraph (b) of this section, an inmate earns longevity pay raises after 18 months spent in FPI work status regardless of whether or not the work was continuous. The service may have occurred in one or more FPI factories or shops. An inmate qualifies for longevity pay raises as provided in the table below:

Length of Service With FPI
After 18 months of service and payable in the 19th month
After 30 months of service and payable in the 31st month
After 42 months of service and payable in the 43rd month
After 60 months of service and payable in the 61st month
After 84 months of service (and more) and payable in the 85th month

Longevity pay allowances shall be added after the wages for each actual hour in pay status have been properly computed.

(b) *Exceptions.* (1) FPI work status during service of a previous sentence with a subsequent break in custody may not be considered in determining longevity pay.

(2) An inmate in segregation or who is given a disciplinary transfer loses any longevity status previously achieved.

(3) An inmate who voluntarily transfers to a non-FPI work assignment loses any longevity status previously achieved. An inmate who leaves FPI to enter education, vocational training, or chemical abuse programs, however, generally retains longevity and pay grade status upon return to FPI, unless the inmate withdraws from those programs without a good faith effort to complete them. The decision on whether there was a good faith effort is to be made by the SOI in concert with the staff member in charge of the program.

§ 345.56 Vacation pay.

Inmate workers are granted vacation pay by the SOI when their continued good work performance justifies such pay, based on such criteria as quality of work, attendance and punctuality, attentiveness, and adherence to industry operating regulations. The work supervisor must recommend to the SOI the vacation time to be taken or paid. Eligibility for vacation pay must be verified by the Business Office prior to approval by the SOI. The SOI may declare an inmate ineligible for vacation credit because of an inmate's unsatisfactory work performance during the month in which such credit was to occur.

(a) An inmate may take accrued vacation time for visits, participation in institution programs or for other good reasons at the discretion of the SOI. Industrial managers should make every reasonable attempt to schedule an inmate worker's vacations so as not to conflict with the manpower requirements of factory production schedules and Inmate Systems Management requirements.

(b) An inmate temporarily assigned to the Industrial detail, e.g., on construction details, also earns vacation credit which he or she must take or be paid for at the end of the temporary assignment.

(c) An inmate must take and/or be paid for vacation credit within sixty days after each annual eligibility date of the inmate's most recent date of assignment to UNICOR. An inmate who elects not to take vacation time must indicate this in writing. That inmate shall receive pay for the annual vacation credit in a lump sum on the regular monthly payroll. This amount is ordinarily paid within sixty days after the annual eligibility date of the

inmate's most recent date of assignment to UNICOR. An inmate whose employment is terminated by release, reassignment, transfer, or other reasons, and who has unused vacation credit shall be paid for this credit on the monthly payroll.

§ 345.57 Administrative pay.

An inmate excused from a job assignment may receive administrative pay for such circumstances as a general recall for an institution, power outages, blood donations, or other situations at the discretion of the SOI. Such pay may not exceed an aggregate of three hours per month.

§ 345.58 Holiday pay.

An inmate worker in FPI work status shall receive pay at the standard hourly rate, plus longevity where applicable, for all Federal holidays provided the inmate is in work status on the day before and the day after the holiday occurs. Full time workers receive one full day's pay. Part time workers receive one-half day's pay.

§ 345.59 Inmate performance pay.

Inmate workers for FPI may also receive Inmate Performance Pay for participation in programs where this award is made. However, inmate workers may not receive both Industries Pay and Performance Pay for the same program activity. For example, an inmate assigned to a pre-industrial class may not receive FPI pay as well as inmate performance pay for participation in the class.

§ 345.60 Training pay.

Inmates directed by the SOI to take a particular type of training in connections with a FPI job are to receive FPI pay if the training time occurs during routine factory hours of operation. This does not include ABE/GED or pre-industrial training.

§ 345.61 Inmate earnings statement.

Each inmate worker in FPI shall be given a monthly earnings statement while actively working for FPI.

§ 345.62 Inmate accident compensation.

An inmate worker shall be paid lost time wages while hospitalized or confined to quarters due to work-related injuries (including occupational disease or illnesses directly caused by the worker's job assignments) as specified by the Inmate Accident Compensation Program (28 CFR part 301).

§ 345.63 Funds due deceased inmates.

Funds due a deceased inmate for work performed for FPI are payable to a legal representative of the inmate's estate or in accordance with the law of descent and distribution of the state of domicile.

§ 345.64 Sharing of medical data with FPI staff.

The SOI, in consultation with the medical staff, is to ensure that documented medical information pertaining to an inmate's health and any medical limitation (e.g., back injury) is made available to the FPI staff member making the assignment and to the persons who directly supervise the assignment.

§ 345.65 Inmate medical work limitation.

In addition to any prior illnesses or injuries, medical limitations also include any illness or injury sustained by an inmate which necessitates removing the ill worker from an FPI work assignment. If an inmate worker is injured more than once in a comparatively short time, and the circumstances of the injury suggest an awkwardness or ineptitude which in turn indicates that further danger exists, the inmate may be removed to another FPI detail or to a non-FPI detail.

§ 345.66 Retention of benefits.

(a) *Job Retention.* Ordinarily, when an inmate is absent from the job for a significant period of time, the SOI will fill that position with another inmate, and the first inmate will have no entitlement to continued UNICOR employment.

(1) For up to the first 30 days when an inmate is in medical idle status, that inmate will retain UNICOR pay grade status, with suspension of actual pay, and will be able to return to UNICOR when medically able, provided the absence was not because of a UNICOR work-related injury resulting from the inmate's violation of safety standards. If the medical idle lasts longer than 30 days, was not caused by a violation of safety standards, and the unit term approves the inmate's return to UNICOR, and SOI shall place that inmate within the top ten percent of the UNICOR waiting list.

(2) Likewise, for up to the first 30 days when an inmate is in Administrative Detention, that inmate may retain UNICOR pay grade status, with actual pay suspended, and will be able to return to UNICOR, provided the inmate is not found to have committed a prohibited act. If Administrative Detention lasts longer than 30 days, and the inmate is not found to have committed a prohibited act, and the unit team approves the inmate'r return to UNICOR, the SOI shall place that inmate within the top ten percent of the UNICOR waiting list.

(3) An inmate in Administrative Detention, and found to have committed a prohibited act, may return to UNICOR work status at the discretion of the SOI.

(4) If an inmate is injured and absent from the job because of a violation of UNICOR safety standards, the SOI may reassign the inmate within UNICOR or recommend that the unit team reassign the inmate to a non-UNICOR work assignment.

(5) If an inmate is transferred from one institution to another for administrative (not disciplinary) reasons, and the unit team approves the inmate's return to UNICOR, the SOI shall place that inmate within the top ten percent of the UNICOR waiting list.

(b) *Longevity and vacation credit.* Ordinarily, when an inmate's UNICOR employment is interrupted, the inmate loses all accumulated longevity and vacation credit with the following exceptions:

(1) The inmate retains longevity and vacation credit when placed in medical idle status, provided the medical idle is not because of a UNICOR work-related injury resulting from the inmate's violation of safety standards. If the medical idle results from a UNICOR work-related injury where the inmate was not at fault, the inmate also continues to earn longevity and vacation credit.

(2) Likewise, the inmate retains, and continues earning for up to 30 days, longevity and vacation credit if placed in Administrative Detention, provided the inmate is not found to have committed a prohibited act.

(3) The inmate retains, but does not continue earning, longevity and vacation credit when transferring from one institution to another for administrative (not disciplinary) reasons, when absent from the institution on writ, or when placed in administrative detention and found to have committed a prohibited act.

(c) *Pay grade retention.* Ordinarily, when an inmate's UNICOR employment is interrupted, that inmate is not entitled to retain his or her pay grade.

(1) An inmate retains pay grade status, with actual pay suspended, for up to 30 days in Administrative Detention. The inmate, if not found to have committed a prohibited act, is reimbursed for the time spent in detention. If found to have committed a prohibited act, the pay grade is retained, but the actual pay is not granted for the time in Administrative Detention.

(2) Likewise, an inmate retains pay grade status for up to 30 days while absent from the institution on writ, with

actual pay suspended. The SOI may approve pay grade retention when an inmate is on writ for longer than 30 days on a case-by-case basis.

(3) If an inmate is absent because of a UNICOR work-related injury where the inmate was not at fault, the inmate retains his or her pay grade, with actual pay suspended.

Subpart F—Awards

§ 345.70 Awards program—general.

FPI provides incentive awards of various types to inmate workers for special achievements in their work, scholarship, suggestions, and for inventions which improve industry processes or safety, or which conserve energy or materials consumed in FPI operations, and for outstanding levels of self-development.

§ 345.71 Official commendations.

An inmate worker may receive an official written commendation for any suggestion or invention adopted by FPI, or for any special achievement, as determined by the SOI, related to the inmate's industrial work assignment. A copy of the commendation is to be placed in the inmate's central file.

§ 345.72 Cash bonus or cash award.

An inmate worker may receive a cash bonus or cash award for any suggestion or invention which is adopted by FPI and produces a net savings to FPI of at least $250.00. Cash awards shall be one percent of the net estimated savings during the first year, with the minimum award being $25.00, and the maximum award being $1,000.00.

§ 345.73 Procedures for granting awards for suggestions or inventions.

Inmate suggestions for improvements in operations or safety, or for conservation of energy or material, must be submitted in writing.

(a) The inmate's immediate supervisor shall review the suggestion and forward it with comments and award recommendation to the SOI.

(b) The SOI shall ensure that all inmate suggestions and/or inventions formally submitted are considered for incentive awards by a committee comprised of Industries personnel designated by the SOI.

(1) The committee is authorized to award a cash award of up to $100.00 or an equivalent gift not to exceed $100.00 in value to an inmate whose suggestion has been adopted. A recommendation for an award in excess of $100.00 shall be forwarded to the Assistant Director, FPI, for a final decision.

(2) The committee shall forward all recommendations for awards for inventions through the SOI to the Warden. The Warden may choose to add his or her comments before forwarding to the Assistant Director, FPI, for a final decision.

(3) Incentive awards are the exclusive methods for recognizing inmates for suggestions or inventions.

§ 345.74 Awards for special achievements for inmate workers.

While recognition of inmate worker special achievements may originate from any FPI staff member, the achievement ordinarily will be submitted in writing by the inmate's immediate supervisor.

(a) The SOI shall appoint a local institution committee to consider inmates for special achievement awards.

(b) The committee shall forward its recommendations to the SOI, who is authorized to approve individual awards (cash or gifts) not to exceed $100 in value. A recommendation for an award in excess of $100 (cash or gifts) shall be forwarded, with the Superintendent's recommendation and the justification for it, through the Warden to the Assistant Director, FPI. The Warden may submit comments on the recommendation.

Subpart G—Training and Scholarship Programs

§ 345.80 FPI inmate training and scholarship programs.

As earnings permit, FPI provides appropriate training for inmates which is directly related to the inmate worker's job assignment. Additionally, FPI administers a scholarship program to provide inmates with an opportunity to begin, or to continue with business and industry courses or vocational training.

(a) An applicant for FPI-funded training program should be evaluated to determine sufficient interest and preparation to successfully complete the course content. The evaluation may be done by the Education Department, Unit Team, or other qualified personnel.

(b) An inmate selected to participate in FPI-funded training programs ordinarily must have enough sentence time remaining to serve to complete the training.

§ 345.81 Pre-industrial training.

FPI encourages the development and use of pre-industrial training programs. Such training ordinarily provides benefits to the inmate and to the factory. Pre-industrial training also provides an additional management tool for replacing inmate idleness with constructive activity. Accordingly, each factory location may provide a pre-industrial training program.

(a) Pre-industrial program trainees shall ordinarily begin at the entry level pay grade (grade 5). Positions for pre-industrial training programs are filled in the same manner as other grade five positions.

(b) Pre-industrial training is not a prerequisite for work placement if the inmate already possesses the needed skill.

(c) If pre-industrial training is available and the worker has not completed both the skill training and orientation phases of pre-industrial training, the inmate should be put into the first available training class.

(d) When pre-industrial training is not available, new FPI assignees will receive on-the-job training in pre-industrial pay status for a period of at least 30 days before being promoted into available fourth grade jobs.

§ 345.82 Apprenticeship training.

FPI provides inmate workers with an opportunity to participate in apprenticeship training programs to the extent practicable. Such programs help prepare workers for post-release employment in a variety of trades. Apprentices are given related trades classroom instruction in addition to the skill training during work hours, where necessary.

§ 345.83 Job safety training.

FPI provides inmates with regular job safety training which is developed and scheduled in coordination with the institution Safety Manager. Participation in the training shall be documented in a safety training record signed by the inmate.

§ 345.84 The FPI scholarship fund.

FPI shall award post-secondary school scholarships to selected, qualified inmate workers. These scholarships provide an inmate with the opportunity to begin or continue with business and industry courses or vocational training as approved and deemed appropriate by the Supervisor of Education.

(a) *Eligibility Requirements.* The SOI and the Supervisor of Education at each institution shall develop application procedures to include, at a minimum, the following criteria:

(1) The inmate shall be a full-time FPI worker.

(2) The inmate has a favorable recommendation for participation from his or her work supervisor.

(3) The inmate meets all relevant institution requirements for participation (e.g. disciplinary record, custody level, etc.).

(4) The inmate is accepted by the institution of higher learning offering

the course or program which is requested.

(5) The inmate must maintain a verifiable average of "C" or better to continue program eligibility.

(6) Before beginning the course of study, the inmate must sign an agreement to provide the SOI with an unaltered, original copy of his or her grades.

(b) *Scholarship Selection Procedures.* FPI scholarship awards shall be made by a three member Selection Committee comprised of the SOI, the Supervisor of Education, and one other person designated by the SOI.

(c) *Scholarship Program Operation.*

(1) Ordinarily, one scholarship may be awarded per school period for every fifty workers assigned. At least one scholarship may be awarded at each institution location, regardless of the number of inmates assigned.

(2) Individual scholarships ordinarily should not exceed the cost of tuition and books for one course. Where several courses may be taken for the same cost as one, the inmate worker may be allowed to take more than one course.

(3) Scholarship monies are to be paid only to the institution providing instruction, or to the Education Department for transfer of funds to the college, university, or technical institution providing instruction.

(4) An inmate may not receive more than one scholarship per school period.

(5) An inmate must maintain at least a "C" average to be continued as eligible for further assistance. An inmate earning less than "C" must wait one school period of eligibility before reapplying for further assistance. Where a course grade is based on a "pass/fail" system, the course must be "passed" to be eligible for further assistance.

(6) An inmate awarded a correspondence course must successfully complete the course during a school year (e.g., 2 semesters, 3 quarters).

(7) An inmate receiving scholarship aid must have approval from the SOI and the Supervisor of Education before withdrawing from classes for good reason. An inmate withdrawing or "dropping" courses without permission shall wait one school year before applying for further scholarship assistance. An inmate may withdraw from courses without penalty for medical or non-disciplinary administrative reasons such as transfer, writ, release, etc., without first securing permission, although withdrawals for medical reasons must be certified in writing by the Hospital Administrator.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 545—WORK AND COMPENSATION

2. The authority citation for 28 CFR part 545 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3013, 3571, 3621, 3622, 3624, 3663, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4126, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart E—[Removed]

Subpart F—[Removed]

Subpart G—[Removed]

3. In 28 CFR part 545, subpart E, consisting of §§ 545.40 through 545.43, subpart F, consisting of §§ 545.50 through 545.56, and subpart G, consisting of §§ 545.60 through 545.64, are removed.

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Federal Register

Wednesday
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Part IV

Environmental Protection Agency

Cancellation of Pesticides for Non-Payment of 1992 Registration Maintenance Fees; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-64014; FRL 4166-6]

Cancellation of Pesticides for Non-Payment of 1992 Registration Maintenance Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The October, 1988 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) imposed a new requirement for payment of an annual maintenance fee to keep pesticide registrations in effect. The fee due last January 15 has gone unpaid for about 2,375 registrations. Section 4(i)(5)(D) of FIFRA provides that the Administrator may cancel these registrations by order and without a hearing; orders to cancel all but a few of them have been issued within the past few days. The Agency is deferring cancellation for certain of these registrations, however, to permit time for affected users to explore alternatives to cancellation directly with the registrants.

DATES: Reports of agreements to support continued registration or transfer of the registrations for which cancellation is being deferred must be received by March 16, 1993.

FOR FURTHER INFORMATION CONTACT: To report agreements to support continued registration of any of the products for which cancellation has been deferred, or for further information on the maintenance fee program , contact by mail: John Jamula, Office of Pesticide Programs (H7504C), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Office location and telephone number: Room 210, Crystal Mall No. 2, 1921 Jefferson Davis Highway South, Arlington, VA (703) 305-6426.

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document is available as an electronic file on *The Federal Bulletin Board* at 9 a.m. the day of publication in the **Federal Register**. By modem dial 202-512-1387 or call 202-512-1530 for disks or paper copies. This file is available in Postscript, Wordperfect 5.1 and ASCII.

I. Introduction

Section 4(i)(5) of FIFRA as amended, requires that all pesticide registrants pay an annual registration maintenance fee, due by January 15 of each year, to keep their registrations in effect. This requirement applies to all registrations, granted under section 3, as well as those granted under section 24(c) to meet special local needs. Registrations for which the fee is not paid are subject to cancellation by order and without a hearing.

The 1990 Farm Bill recently amended FIFRA to allow the Administrator to reduce or waive maintenance fees for minor agricultural use registrations when he determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency has identified 63 registrations that fall into this category, and is deferring their cancellation for 90 days. Section II contains a list of these registrations and their vulnerable minor uses, along with instructions for preventing their cancellation.

In late December, 1991, all holders of either section 3 registrations or section 24(c) registrations were sent lists of their active registrations, along with forms and instructions for responding. They were asked to identify which of their registrations they wished to maintain in effect, and to calculate and remit the appropriate maintenance fees. Most responses were received by the statutory deadline of January 15; a supplemental notice was sent in February, however, to registrants who had not responded after acknowledging receipt of the original notice. Late payments of the fees were accepted until April 15, when the process of cancellation was begun.

A few registrants who orginally requested cancellation of certain registrations later changed their minds, and contacted the Agency after April 15 seeking to pay the maintenance fee for these registrations. Since the cancellation process had already begun, the late fees were not accepted. These registrations have now been canceled, but the Agency may be able to provide expedited review of applications for replacement registrations received from these companies. Registrants who believe that they may qualify for this expedited review should call the toll-free maintenance fee information line at 1-800-755-2424 for further information.

Since mailing the notices, EPA has maintained a toll-free inquiry number through which the questions of affected registrants have been answered.

Maintenance fees have been paid for about 17,800 section 3 registrations, or about 90 percent of the registrations on file in December. Fees have been paid for about 2,500 section 24(c) registrations, or about 84 percent of the total on file in December. Cancellations for non-payment of the maintenance fee affect about 1,920 section 3 registrations and about 450 section 24(c) registrations.

II. Product Cancellations not Affecting Status of Active Ingredient

Our analyses indicate that a significant number of these cancellations are simple housekeeping transactions, unlikely to affect pesticide markets or users. For example, more than three quarters of the Section 3 registrations for which no fee was paid are no longer in production, and their disappearance from the market will cause no adverse impact.

Although comparable production data are not available for the canceled 24(c) registrations, the Agency believes most of them are similarly obsolete. Over 72 percent of them were originally issued before 1987—most of them for a finite term which has long since expired. A large proportion have also been made obsolete by subsequent Section 3 registrations for the same uses.

The remaining cancellations, 450 section 3 registrations and 127 section 24(c) registrations issued in the past 5 years, have been the principal focus of our further impact analyses. We anticipate two types of impact for the bulk of these cancellations. First, some of these disappearing registrations will be survived in the market by substantially identical registrations. These substantially identical products may not, however, be readily available wherever a disappearing product was sold, so there may be local or regional disruptions while distribution patterns are adjusted. We expect these disruptions to be minor and temporary. The cancellation orders generally permit registrants to continue to sell and distribute existing stocks of the canceled products until the due date for the next annual registration maintenance fee, January 15, 1993. Existing stocks already in the hands of dealers or users, however, can generally be distributed, sold or used legally until they are exhausted. Existing stocks are defined as those stocks of a registered pesticide product which are currently in the U.S. and which have been packaged, labeled and released for shipment prior to the effective date of the cancellation action.

The exceptions to these general rules are cases where more stringent restrictions on sale, distribution, or use of the products have already been imposed, through Special Reviews or other Agency actions. These general provisions for disposition of stocks should serve in most cases to cushion the impact of these cancellations while the market adjusts.

Second, in some cases unique non-agricultural uses will disappear, although the active ingredients will remain available for different uses in

other products. When this situation occurs, there may be more serious impacts on users of the canceled products. Once again, existing stocks of the canceled products already in channels of trade will be usable to mitigate these impacts in the short term. For the longer term the mechanisms of Section 3 amendments and 24(c) registrations will remain available to obtain replacement registrations.

Neither of these types of impact leaves users without the means to replace lost registrations; neither is considered to justify further deferral of cancellations for non-payment of the maintenance fee. Thus all these registrations for which the active ingredient will remain in other products have been canceled.

III. Cancellations Leading to Disappearance of Minor Agricultural Uses

A third type of impact arises in cases where unique agricultural uses would disappear. The 1990 Farm Bill amended FIFRA to allow the Administrator to reduce or waive maintenance fees for minor agricultural uses when he determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency has identified 63 registrations in this category, and will defer cancellation of these registrations for 90 days to permit affected users to explore alternatives to cancellation. If within 90 days of publication of this notice the Agency is notified in writing by the current registrant at the address given above either (1) that the registrant will continue to support the registration, or (2) that an agreement has been reached to transfer the registration to another party, we will waive the 1992 maintenance fee and retain the registration in full active status. It should be emphasized, however, that any such registration would still be subject to all requirements for reregistration, including reregistration fees (except as they may be reduced through the statutory provisions for small business or low volume uses).

The 63 registrations containing a disappearing minor agricultural use are grouped by active ingredient in the following Table 1:

TABLE 1.—REGISTRATIONS WITH DISAPPEARING MINOR AGRICULTURAL USES PENDING CANCELLATION FOR NON-PAYMENT OF 1992 REGISTRATION MAINTENANCE FEE

Chemical Name	Registration No.	Product Name	Site
Aliphatic petroleum hydrocarbons	002270–00187	Excelcide Animal and Area Spray	Cereal Feeds
Alkanol* amine 2,4-dichlorophenoxyacetate *(salts of the ethanol and ispropanol series).	011611–00006	Term-X	Ornamental plants
			Ornamental Plants (Herb & Woody) Bentgrass Bermudagrass Bluegrass Carpetgrass Centipedegrass Fescue St. Augustinegrass Zoysia Grass Ornamental Woody Shrubs Ornamental and/or Shade Trees
Arsenic acid	004581 AZ–79–0036	Desiccant L–10	Okra
Bacillus popilliae and B. lentimorbus	036488–00001	Grub Attack	Ornamental Turf
(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate.	060182 FL–87–0017	Resmethrin EC 26 Insect Spray	Display Crops (Not for Consumption)
5-Bromo-3-sec-butyl-6-methyluracil	009754–00001	Tri-Kil Nonselective Weed and Grass Killer	Cotton Aerial Application
Butoxypolypropylene glycol	021165–00013	Pyranha 1–10 SC Concentrate	Dairy Cattle
(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%.	024909–00003	Formula K Insect Spray	Hatcheries
	060182 FL–87–0017	Resmethrin EC 26 Insect Spray	Display Crops (Not for Consumption)
2-Chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate.	010163–00045	Phosphamidon 8 Spray	Walnut
			Potato Cotton
2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine.	060063 TX–91–0001	Oxon Italia Atrazine 90 Herbicide	Pastures (Grasses) (Forage-Fodder)
(2-Chloroethyl)phosphonic acid	064058 CA–90–0016	Ethrel Plant Regulator	Flowering Pear
Copper oleate	011037–00015	Hacienda Liquid Copper Fungicide Spray	Raspberry Cantaloupe Casaba Melons Honeydew and/or Honey Ball Melon Muskmelons Persian Melons Watermelons
Cube Resins other than rotenone	042057–00073	Morgro Soil and Bulb Dust Insecticide-Miticide	Beans, Hyacinth
			Daffodil Hyacinth Ornamental Deciduous Trees
Cuprous and cupric oxide, mixed	001386–00499	Unico Tomato Potato & Vegetable Dust	Pepper (Fruiting Vegetable) Collards Chinese Cabbage Dandelion Endive Carrot (Root Crop Vegetable) Beets, Garden Corn
2,2-Dichlorovinyl dimethyl phosphate	005440–00116	Cardinal Vapo–5	Grain/Cereal/Flour Bins Feed/Food

TABLE 1.—REGISTRATIONS WITH DISAPPEARING MINOR AGRICULTURAL USES PENDING CANCELLATION FOR NON-PAYMENT OF 1992 REGISTRATION MAINTENANCE FEE—Continued

Chemical Name	Registration No.	Product Name	Site
			Grain/Cereal/Flour Elevators
	006218–00013	Flora-Fog Vapona Greenhouse Fogging Insecticide	Cucumber
			Lettuce
			Radish
			Snapdragon
	006218–00026	Flora Fume Vapona Greenhouse Misting Insecticide	Cucumber
			Lettuce
			Radish
			Snapdragon
Diethanolamine 2-(2-methyl-4-chlorophenoxy)propionate.	008123–00100	Fertilizer 10–6–4 (with Broadleaf Weed Killer)	Buffalograss
			Carpetgrass
			Dichondra (Ground Cover)
O,O-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate.	065362 CA–91–0025	D-Z-A Diazinon 50W Insecticide	Kenaf (Fiber Crop)
Diethylamine 2,4-dichlorophenoxyacetate	004502–00004	Bel 2,4–D Amine (A Selective Weed Killer)	Barley (Grain Crop)
			Rice (Grain Crop)
			Rye (Grain Crop)
			Wheat (Grain Crop)
			Sugarcane (Sugar Crop)
			Corn
			Sorghum
			Barley-Legume Mixture
			Rye-Legume Mixture
			Wheat-Legume Mixture
			Pastures
			Rangeland
			Farm or Agricultural Structure
			Uncultivated Agricultural Area
			Fallow or Idle Agricultural Land
			Aerial Application
	004502 LA–79–0007	Bel 2,4–D Amine (A Selective Weed Killer)	Aerial Application
1,2-Dihydro-3,6-pyridazinedione, potassium salt	008123–00097	Liquid Growth Retardant	Bermudagrass
6,7-Dihydrodipyrido(1,2-a:2',1'-c)pyrazinedilium dibromide.	003837–00023	Diquatic Weed Killer	Greenhouse Environs and Equipment
	037347–00005	Quat Aquatic Weed Killer	Ornamental Ponds and Fountains
O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate.	052466–00002	Malacide Concentrate	Goats (Wool)
	63204 CA–90–0046	Prokil Malathion 8E	Jojoba (Foliar Application)
Dimethylamine 4-(2,4-dichlorophenoxy)butyrate	039184 WA–89–0012	2,4–DB 175 Selective Pest-Emergence Herbicide	Radish
Dodecylguanidine acetate	002749–00152	Dodine 65–W Fungicide	Sycamore
Ethylene oxide	065136 ME–91–0005	Carboxide Sterilant-Fumigant Gas	Beehives (Empty)
Ethylenediaminetetraacetic acid	004829–00001	Coastal Sani Det Germicidal Cleaner	Milking Equipment
Formaldehyde	001712–00007	Hydrol Formaldehyde Disinfectant	Mushroom House Environs and Equipment
Iodine	001190–00053	Pex-O-Dine 1.75	Farm or Agricultural Structure
			Farm or Agricultural Equipment
Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer.	000299–00173	Martin's Borer & Beetle Killer for Pine and Hardwood Trees	Forest Trees (Hardwoods)
	000769–00159	20% Lindane Emulsifiable Concentrate	Barns
Magnesium phosphide	040285–00010	Degesch Magtoxin Pellets	Sorghum
Manganese ethylenebis(dithiocarbamate)	000407–00319	Imperial Maneb Fungicide	Turnip (Leafy Vegetable)
Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane).	004691–00095	Methoxychlor & Malathion Dairy Cattle Dust	Cattle, Non-Lactating
Methyl bromide	060250 CA–82–0029	Methyl Bromide 100	Small Fruits
2-Methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime.	001016 DE–85–0003	Temik 15 G Aldicarb Pesticide	Potato
	001016 ME–85–0002	Temik 15 G Aldicarb Pesticide	Potato
	001016 VT–85–0002	Temik 15 G Aldicarb Pesticide	Potato
2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl 2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate.	001421–00102	Dynamic Super Insecticide Concentrate	Poultry
			Egg Packing Plants
2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl *d*-trans-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate.	007885–00007	Zoe House and Garden Insect Killer	Ornamental Broadleaf Evergreen
			Ornamental Conifers
	044400–00003	House & Garden Insect Killer	Ornamental Broadleaf Evergreen
Methylated naphthalenes	008123–00062	Ornamental Insecticide	Ornamental Herbaceous Plants
4-(Methylthio)-3,5-xylyl methylcarbamate	001386–00576	Unico Snail and Slug Pellets-M	Greenhouse Environs and Equipment
Monosodium acid methanearsonate	011611–00006	Term-X	Ornamental Flowering Plants
			Carpetgrass
			Centipedegrass

TABLE 1.—REGISTRATIONS WITH DISAPPEARING MINOR AGRICULTURAL USES PENDING CANCELLATION FOR NON-PAYMENT OF 1992 REGISTRATION MAINTENANCE FEE—Continued

Chemical Name	Registration No.	Product Name	Site
			St. Augustinegrass
1-Napthyl-*A*-methylcarbamate	042057–00073	Morgro Soil and Bulb Dust Insecticide-Miticide	Beans, Hyacinth
			Hyacinth
A-Octyl bicycloheptene dicarboximide	006218–00046	Summit Sumithrin Greenhouse Aerosol	Rubber Plant Amaranthus Aerve Plant Hibiscus Viburnum
	046269–00009	Renex 1140	Fruits
(3-Phenoxyphenyl)methyl *d*-cis and trans* 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate.	006218–00046	Summit Sumithrin Greenhouse Aerosol	Dahlias Lilies Rubber Plant Amaranthus Aerve Plant Crotons Hibiscus Hydrangea
Phorate (*O,O*-diethyl *S*-((ethylthio)methyl) phosphorodithioate).	002749–00123	Phorate 15–G	Corn
	042697 AC–83–0011	Safer Agro Chems Insecticidal Soap	Fraser Fir
Pyrethrins	024909–00003	Formula K Insect Spray	Hatcheries
Silver	059243–00002	WSA Bacteriostatic Water Trt. Unit, Model WSA2 CT	Aquatic Areas
Sodium carbonate	008238–00002	Barcrobe Germicidal Detergent Concentrate	Farm Animals
Sodium dimethyldithiocarbamate	008764–00006	Freshgard 40	Melons
Sodium fluoroacetate	035975–00004	Sodium Fluroacetate (CD 1080) Livestock Protection Collar	Goats (all) Montana Sheep (all) Montana
Sodium hypochlorite	011741–00012	Davies "Dairy-San"	Dairy Farm Milk Storage Rooms
	033458 FL–89–0021	Pool Guard Sodium Hypochlorite	Irrigation Systems
Sodium metaborate	009754–00001	Tri-Kil Nonselective Weed and Grass Killer	Cotton Aerial Application
Streptomycin sulfate	000618 OR–81–0029	Agri-Strep (streptomycin Sulfate Agricultural Merck)	Aerial Application
	000618 WA–81–0062	Agri-Strep (streptomycin Sulfate Agricultural Merck)	Aerial Application
Strychnine	005042 OR–84–0029	Orco Boomer-Rid	Forest Plantings (Reforestation)
2-(4'-Thiazolyl)benzimidazole	000618 WY–80–0002	Mertect 340–F Fungicide	Cottonwood
3,7,11-Trimethyl-1,6,10-dodecatrien-3-ol	063241 AZ–87–0017	Stirrup-M	Blackberry Boysenberry Dewberry Loganberry Raspberry Cranberry Grapes Strawberry Grapefruit Kumquat Lemon Lime Orange Tangelo Tangerine Almond Chestnut Filbert Macadamia Nut Pecan Walnut Apple Pear Quince Apricot Cherry Nectarine Peach Plum Prune Fig Hops (Flavoring and Spice Crop) Melons Cantaloupe Watermelons Cucumber Pumpkin Squash Eggplant

TABLE 1.—REGISTRATIONS WITH DISAPPEARING MINOR AGRICULTURAL USES PENDING CANCELLATION FOR NON-PAYMENT OF 1992 REGISTRATION MAINTENANCE FEE—Continued

Chemical Name	Registration No.	Product Name	Site
			Pepper (Fruiting Vegetable) Tomato Potato Alfalfa (Forage-Fodder) Clover (Forage-Fodder) Beans Corn Cotton Mint Peanuts Sorghum Sugar Beets Ornamental Plants (Herb & Woody)
Trisodium phosphate	011741–00012	Davies "Dairy-San"	Dairy Farm Milk Storage Rooms
Xylene	000769–00218	Grain Protection Spray	Barley (Grain Crop) Oats (Grain Crop) Rice (Grain Crop) Rye (Grain Crop) Sorghum (Grain Crop) Wheat (Grain Crop) Peanuts Seeds (Agricultural and Ornamental) Processing or Handling Equipment
	052466–00002	Malacide Concentrate	Goats (Wool)
Xylene range aromatic solvent	000550–00108	Aamco Malathion 57–E	Caneberries Macadamia Nut Papaya Corn Sorghum Vegetables Forest Trees (Deciduous) Red Pine Cull Piles (Fruit, vegetables, Etc.) Citrus Pulp Cattle Feed

We encourage individual users or user groups who are concerned about the potential loss of these active ingredients to work directly with registrants identified by the first 6 digits of the Reg No. in Table 1 to persuade them to continue to support the ingredient, or to identify third parties who would be willing to support the ingredient if the registrations were transferred to them. Their full names and address appear in Table 3 below.

IV. Cancellations Leading to Disappearance of Active Ingredients

A final type of impact arises if an active ingredient that is now or recently has been available in the marketplace disappears. The Agency has identified 25 registered active ingredients that fall into this category; i.e., they have been produced in the past 3 years and the maintenance fee has not been paid for any product containing them. Twenty-three of these 25 ingredients have not been supported for reregistration; impacts of their disappearance will not be reconsidered here.

After deleting these 23 from the list of 25, 2 disappearing active ingredients remain. None subject to prior regulatory action, and all are likely to disappear as a consequence of these cancellations. The two active ingredients affected are formulated in a single product used for aquatic weed control.

These 2 ingredients, along with the EPA registration number and product name of the product in which they occur, are listed in the following Table 2:

TABLE 2.—ACTIVE INGREDIENTS WITH RECENT PRODUCTION PENDING CANCELLATION OF ALL PRODUCTS FOR NON-PAYMENT OF 1992 REGISTRATION MAINTENANCE FEES

Chemical Name	Registration No.	Product Name
Calcium Sulfate	033436–00001	Clean-Flo Lake Cleanser
Aluminum Sulfate	033436–00001	Clean-Flo Lake Cleanser

Because these active ingredients are at risk to disappearance, the Agency has deferred cancellation of this registration for 90 days. During that time the registrant or other affected persons may make arrangements to continue the registration.

If the last Section 3 registration for an ingredient disappears, the Section 24(c) registration process is unlikely to be able to compensate for the loss. Thus EPA is temporarily deferring cancellation of this product to allow adversely affected users to pursue alternatives to cancellation.

We encourage individual users or user groups who are concerned about the potential loss of these active ingredients to work directly with the registrant identified by the first 6 digits of the Reg No. in Table 2 to persuade them to continue to support the ingredient or to identify third parties who would be willing to support the ingredient if the registration were transferred to them. Their full names and addresses appear in Table 3 below. We also encourage users to consult with the Cooperative Extension Service or other local sources

to identify alternatives to these active ingredients.

If within 90 days of publication of this notice the Agency is notified in writing by the current registrant at the address listed in Table 3 below either (1) that the registrant will continue to support the registration, or (2) that an agreement has been reached to transfer the registration to another party, we will retain the registration in full active status as soon as the delinquent maintenance fee payment is received. It should be emphasized, however, that any such registration would still be subject to all requirements for reregistration, including reregistration fees (except as they may be reduced through the statutory provisions for small businesses or low volume uses).

TABLE 3.—REGISTRANTS OF SELECTED REGISTRATIONS CANCELLATION FOR NON-PAYMENT OF 1992 REGISTRATION MAINTENANCE FEE

EPA Company No.	Registrant Name and Address
000299	C.J. Martin Co., 606 W Main St. Box 9, Nacogdoches, TX 75961.
000407	Imperial Inc., Box 98, Shenandoah, IA 51601.
000550	Van Waters & Rogers, Inc., Subsidiary of Univar, Box 34325, Seattle, WA 98104.
000618	Merck & Co Inc., Hillsborough Rd, Three Bridges, NJ 08887.
000769	Sureco, Inc., Box 938, Fort Valley, GA 31030.
001016	Union Carbide Corp., UCC Linde Division, 200 Cottontale Lane, Somerset, NJ 08875.
001190	J.F. Daley International, Ltd., Pecks Products Division, 1200 Switzer Ave., St Louis, MO 63147.
001386	Universal Cooperatives Inc., Box 460 7801 Metro Parkway, Minneapolis, MN 55440.
001421	Dettelbach Chemical Co., Division of Hysan Corp., 4309 South Morgan Street, Chicago, IL 60609.
001712	Hydrol Chemical Co., 520 Commerce Dr., Yeadon, PA 19050.
002270	Huge' Co., Inc., The, 7625 Page Ave., St. Louis, MO 63133.
002749	Aceto Agriculture Chemicals Corp., One Hollow Lane, Lake Success, NY 11042.
003837	Southern Chemical Co., Box 350, Anna, IL 62906.
004502	Bel Chemical & Supply Co., Inc., Schriever Box Drawer 450, Schriever, LA 70395.
004581	Elf Atochem N.A. Inc., Agchem Division, Three Parkway, Room 619, Philadelphia, PA 19102.
004691	Boehringer Ingelheim Animal Health Inc., Anchor Div, 2621 North Belt Highway, St Joseph, MO 64506.
004829	Costal Industries, 225 Passaic Street, Passaic, NJ 07055.
005042	Oregon Rodent Control Outfitters, Inc., 640 Hwy 99E, Harrisburg, OR 97211.
005440	Cardinal Chemical Co., 3171 Fitzgerald Rd., Rancho Cordova, CA 95742.
006218	Summit Chemical Co., 7657 Canton Center Dr., Baltimore, MD 21224.
007885	Zoe Chemical Co., 1801 Falmouth Ave., New Hyde Park, NY 11040.
008123	Frank Miller & Sons Inc., 13831 S. Emerald Ave., Chicago, IL 60627.
008238	Barrier Industries Inc., 200 E. Main St., Port Jervis, NY 12771.
008764	FMC Corp., Box 1708, Lakeland, FL 33802.
009754	Gro-Lyfe, 810 E. 18th Street, Los Angeles, CA 90021.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
011037	Garden Valley Fertilizer Co., DBA Hacienda Enterprises, 565 Charles St, San Jose, CA 95112.
011611	Puma Management &Technical Services Inc., 1000 W. Fuller St. Box 6512, Ft Worth, TX 76115.
011741	Davies DW & Co. Inc., 3200 Phillips Ave, Racine, WI 53403.
021165	Chem-I-Matic Inc., Box 920706, Houston, TX 77292.
024909	Knapp Mfg. Co., 5227 E. Pine Ave. Box 7995, Fresno, CA 93747.
033436	Clean-Flo Laboratories Inc., 4342 Shady Oak Rd., Hopkins, MN 55343.
033458	Allied Universal Corp., 8350 N.W. 93 Street, Miami, FL 33166.
035975	Montana Department of Livestock, Capitol Station, Helena, MT 59620.
036488	Attack Pesticides, c/o Delta Analytical Corp., 1414 Fenwick Ln, Silver Spring, MD 20910.
037347	Uni-Chem Corp. of Florida, 2801 NW 55th Ct. Box 6336, Ft. Lauderdale, FL 33309.
039184	Tri-River Chemical Co., Inc., Box 2641, Pasco, WA 99302.
040285	Degesch America, Inc., Box 116, Weyers Cave, VA 24486.
042057	Morgro Chemical Co., Box 651048, Salt Lake City, UT 84165.
042697	Safer Inc., c/o Delta Analytical Corp., 1414 Fenwick Ln., Silver Spring, MD 20910.
044400	Amis Co., Division of Hysan Corp., 4309 S Morgan St, Chicago, IL 60609.
046269	Quip Laboratories, Inc., 1401 "A" Street, Wilmington, DE 19801.
052466	Horse Health Products, Inc., c/o Alchemists Inc., Box 7486, Athens, GA 30604.
059243	Water Safety Associates, Inc., 302 South Leadbetter Rd., Bldg #17, Ashland, VA 23005.
060063	Sostram Corp., 70 Mansell Ct., Suite 230, Roswell, GA 30076.

TABLE 3.—REGISTRANTS OF SELECTED REGISTRATIONS CANCELLATION FOR NON-PAYMENT OF 1992 REGISTRATION MAINTENANCE FEE—Continued

EPA Company No.	Registrant Name and Address
060182	Land, Epcot Center, Box 10,000, Lake Buena Vista, FL 32830.
060250	Consolidated Factors, Import & Export Div., 140 Olivier St., Monterry, CA 93940.
063204	Desert Ag Services, Box 409, Desert Center, CA 92239.
063241	Fermone Corp., Inc., 2620 W. 37th Drive, Phoenix, AZ 85009.
064058	City of Modesto, Parks & Recreation Dept., Box 642, Modesto, CA 95353.
065136	Maine Dept. of Agriculture, Food & Rural Resources, Div. of Plant Industry, Station #28, Augusta, ME 04333.
065362	Palmetto Seed Co., 1016 Ridge Pk., Brawley, CA 92227.

In addition to publishing this notice in the **Federal Register**, we are sending it directly to the States, to the U.S. Department of Agriculture, and to other parties who have previously expressed concern for minor uses. They should be receiving the notice at approximately the same time it is published. We hope that this extraordinary notification effort, and the deferral of cancellations for the most sensitive registrations, will serve to prevent any avoidable loss of critical minor use pesticides.

Because so many registrations are involved, it would be impractical to list them all in this notice. Complete lists of registrations canceled for non-payment of the maintenance fee will, however, be available for reference during normal business hours in the OPP Public Docket, room 1128, Crystal Mall #2, 1921 Jefferson Davis Highway South, Arlington VA, and at each EPA Regional Office. Product-specific status inquiries may be made by telephone by calling toll-free 1–800–444–7255.

Dated: November 30, 1992.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92–30434 Filed 12–15–92; 8:45 am]

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federal register

Wednesday
December 16, 1992

Part V

Environmental Protection Agency

Pesticide Reregistration; Outstanding Data Requirements for Certain Lists B and C Active Ingredients (Fifth Notice)

[OPP-34034; FRL-4168-6]

Pesticide Reregistration: Outstanding Data Requirements for Certain List B and C Active Ingredients (Fifth Notice).

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1988 establishes a five-phase process for the reregistration of pesticide products containing active ingredients "contained in any pesticide first registered before November 1, 1984." During Phase 1 the Environmental Protection Agency (the Agency) divided the active ingredients subject to reregistration into four lists; Lists B, C and D were published in the Federal Register on May 25, 1989 (54 FR 22706); July 24, 1989 (54 FR 30846); and October 24, 1989 (54 FR 43388), respectively. FIFRA requires the Administrator during Phase 4 of reregistration to publish the outstanding data requirements identified for those active ingredients being supported for reregistration. The outstanding data requirements of 129 List B active ingredients were published by the Agency among four previous **Federal Register** Notices at 56 FR 6849, February 20, 1991; 56 FR 37610, August 7, 1991; 56 FR 54852, October 23, 1991, and 57 FR 9474, March 18, 1992. This fifth Notice continues the series of reporting the outstanding data requirements of one additional List B and 30 List C active ingredients. Remaining supported Lists B, C, and D active ingredients are on a later reregistration schedule and their unfulfilled data requirements will be published in future Notices.

FOR FURTHER INFORMATION CONTACT: By mail, Teung F. Chin, Special Review and Reregistration Division (H7508W), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, Crystal Station 1, 2800 Crystal Drive, Arlington, VA 22202. Telephone No. (703) 308-8589.

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document is available as an electronic file on the *Federal Bulletin Board* at 9:00 a.m. on the date of publcation in the **Federal Register**. By modem dial (202) 512-1387 or call (202) 512-1530 for disks or paper copies. This file is also available in Postscript, Wordperfect and ASCII.

This Notice identifies, pursuant to FIFRA section 4(f)(1)(B), the outstanding data requirements needed for reregistration of certain of the active ingredients on Lists B and C. That section also calls for the separate issuance of Data Call-In notices to registrants to obtain information satisfying these data requirements. The Agency has recently issued such Data Call-In notices to the appropriate registrants.

This SUPPLEMENTARY INFORMATION is divided into four units. Unit I provides background information on pesticide reregistration. Unit II discusses the requirements of section 4(f)(1)(B). Unit III describes the process used by the Agency in identifying outstanding data requirements. It also contains a table of the outstanding data requirements for each active ingredient. Unit IV describes the Data Call-In notices that have been issued to obtain data to satisfy the data requirements identified in this Notice.

I. Background

Section 4 of FIFRA as amended in 1988 required the Agency to conduct pesticide reregistration of older pesticides in five phases. In Phase 1, the Agency published Lists A, B, C, and D of pesticide active ingredients subject to reregistration. For Lists B, C, and D in Phase 2, registrants seeking reregistration had to identify for the Agency any data requirements which registrants believe would apply to their active ingredients, and indicate the ones that they thought were now satisfied. For those that were not satisfied, registrants had to indicate how they would fulfill the remaining data requirements necessary for the reregistration of their products. In Phase 3, these registrants summarized and in some cases reformatted studies that they believed were adequate and that they had previously submitted to the Agency. In Phase 4, the Agency is directed to review the materials submitted by registrants in Phases 2 and 3, and to identify the outstanding data requirements that need to be fulfilled in order for the Agency to determine whether or not pesticides containing particular active ingredients are eligible for reregistration. The Agency is further directed to issue Data Call-In notices to obtain data to satisfy these outstanding requirements. Finally, in Phase 5, the Agency must review the data submitted by registrants; determine whether pesticides containing particular active ingredients are eligible for reregistration; obtain product-specific information needed to determine whether particular products should be reregistered; and make final determinations on whether such products should be reregistered. The final determination on reregistration is to be based on whether a pesticide meets the standards of FIFRA section 3(c)(5), which prescribes the standards for initial registration of pesticides. If the Administrator determines that a pesticide should not be reregistered, section 4 directs the Administrator to take appropriate regulatory action.

Pursuant to FIFRA section 4(c)(2)(B) the Agency published in the **Federal Register** on May 25, 1989, a list of 229 chemicals (in 149 review cases) constituting List B of reregistration. Similarly, on July 24, 1989, a list of 257 chemicals (in 150 review cases) constituting List C of reregistration was published in the Federal Register. The Agency then sent guidance on how to comply with Phase 2 of reregistration to all registrants of pesticides containing active ingredients on Lists B and C. Registrants were required to inform EPA of their intent to seek or not to seek reregistration, to identify data requirements they believe applied to the active ingredients in their products, to identify the data requirements for which they have already submitted adequate data, and to commit to replace missing or inadequate data concerning the List B active ingredients contained in their products.

To assist registrants in complying with Phase 3, the Agency issued on December 24, 1989 the FIFRA Accelerated Reregistration —Phase 3 Technical Guidance (EPA No. 540/09-90-078). This document provides detailed instructions on: (i) Summarizing studies, (ii) reformatting studies, (iii) identifying adverse information, and (iv) identifying previously submitted studies that may not fully satisfy current requirements. To meet the requirements for Phase 3, registrants were required to submit summaries of previously submitted studies that they wished to rely on for reregistration. Additionally, for studies submitted prior to January 1, 1982, registrants had to submit a reformatted version of the study, if data were for certain toxicological and residue chemistry guidelines. Registrants were to certify that the raw data for the previously submitted studies were either in their possession, or in the possession of the Agency, or were readily accessible elsewhere. Registrants were to identify and submit any data considered under section 6(a)(2) to show an adverse effect of the pesticide. Also, registrants were to identify any other information they considered to be supportive of registration. And registrants had to commit to fill any new data gaps identified by them.

In Phase 4, the Agency has been conducting a review of the adequacy of

the data submitted by registrants for active ingredients on Lists B and C during Phases 2 and 3 and in compliance with any Data Call-In notices previously issued under section 3(c)(2)(B) of FIFRA. The purpose of the Agency's review was to systematically identify all data requirements for active ingredients that, based on information available to the Agency at this time, are necessary for a determination of eligibility for reregistration. For many active ingredients, registrants may have already committed to meet some of those requirements but have not yet submitted the results of their studies to the Agency. Concurrently, to effect the submission of those data for which commitments have not yet been made, the Agency issued Data Call-In notices to affected registrants for the additional data required by the Agency. This Notice identifies the outstanding data requirements for 31 List B and C active ingredients. It includes any new data requirements identified that are the subject of Data Call-In notices being sent to affected registrants, as well as any other prior commitments of unfulfilled data requirements. Collection of this information is authorized under the Paperwork Reduction Act by the Office of Management and Budget under OMB Control No. 2070–0107.

II. Outstanding Data Requirements

Section 4 (f)(1)(B) of FIFRA requires the Agency to publish this Notice of outstanding data requirements for each active ingredient on Reregistration Lists B and C. The Agency has been conducting a review of the information provided on all List B and C submissions on record for data adequacy and completeness, and has identified in this followup Notice a partial list of those chemicals with outstanding data requirements. Section 2(ff) of FIFRA defines outstanding data requirements as "a requirement for any study, information, or data that is necessary to make a determination under section 3(c)(5) and which study, information, or data — (A) has not been submitted to the Administrator; or (B) if submitted to the Administrator, the Administrator has determined must be resubmitted because it is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued under such section."

For purposes of the **Federal Register** Notice, outstanding data requirements include all requirements identified by the Agency which have yet to be satisfied at the active ingredient level, before or pursuant to Phases 2, 3, and 4 of reregistration. If registrants committed during Phases 2 and 3 or pursuant to prior actions to submit data to fulfill certain data requirements, and the data have not yet been submitted, the Agency is identifying them as outstanding. Upon review of the completed studies submitted either in response to earlier Data Call-In notices or as part of the reregistration process, the Agency may need to call in some additional studies before a final determination on reregistration can be made.

As in the previous **Federal Register** Notices, the following Table 1 provides a complete listing of the Guideline Reference Numbers (GRN) and corresponding titles for the data requirements referred to in this Notice.

TABLE 1.—STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS

Guideline Reference No.	Test of Study
61–1	Product Identification and Disclosure of Ingredients[1]
61–2(a)	Description of Beginning Materials and Manufacturing Process[2]
61–2(b)	Discussion of Formation of Impurities[3]
62–1	Preliminary Analysis[4]
62–2	Certification of Limits[5]
62–3	Analytical Methods to Verify Certified Limits[6]
Physical and Chemical Characteristics[7].	
63–2	Color
63–3	Physical State
63–4	Odor
63–5	Melting Point
63–6	Boiling Point
63–7	Density, Bulk Density, or Specific Gravity
63–8	Solubility
63–9	Vapor Pressure
63–10	Dissociation Constant
63–11	Octanol/Water Partition Coefficient
63–12	pH
63–13	Stability
63–14	Oxidizing or Reducing Action
63–15	Flammability
63–16	Explodability
63–17	Storage Stability
63–18	Viscosity
63–19	Miscibility
63–20	Corrosion Characteristics
63–21	Dielectric Breakdown Voltage
64–1	Submittal of Samples
Wildlife and Aquatic Organisms Data Requirements[8].	
71–1(a)	Acute Avian Oral Toxicity (LD50) in Bobwhite Quail or Mallard Duck
71–1(b)	Acute Avian Oral Toxicity (LD50) in Bobwhite Quail or Mallard Duck (Using Typical End–Use Product)
71–2(a)	Acute Avian Dietary Toxicity (LC50) in Bobwhite Quail
71–2(b)	Acute Avian Dietary Toxicity (LC50) in Mallard Duck
71–3	Wild Mammal Toxicity Test
71–4(a)	Avian Reproductive Toxicity in Bobwhite Quail
71–4(b)	Avian Reproductive Toxicity in Mallard Duck
71–5(a)	Simulated Terrestrial Field Study
71–5(b)	Actual Terrestrial Field Study

TABLE 1.—STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS—Continued

Guideline Reference No.	Test of Study
72–1(a)	Fish Toxicity in Bluegill Sunfish
72–1(b)	Fish Toxicity in Bluegill Sunfish (Using Typical End-Use Product)
72–1(c)	Fish Toxicity in Rainbow Trout
72–1(d)	Fish Toxicity in Rainbow Trout (Using Typical End-Use Product)
72–2(a)	Invertebrate Toxicity Freshwater LC50 (*Daphnia* Preferred)
72–2(b)	Invertebrate Toxicity Freshwater LC50 (*Daphnia* Preferred-Using Typical End-Use Product)
72–3(a)	Toxicity to Estuarine and Marine Organisms (in Fish)
72–3(b)	Toxicity to Estuarine and Marine Organisms (in Molluscs)
72–3(c)	Toxicity to Estuarine and Marine Organisms (in Shrimp)
72–3(d)	Toxicity to Estuarine and Marine Organisms (in Fish - Using Typical End-Use Product)
72–3(e)	Toxicity to Estuarine and Marine Organisms (in Molluscs - Using Typical End-Use Product)
72–3(f)	Toxicity to Estuarine and Marine Organisms (in Shrimp - Using Typical End-Use Product)
72–4(a)	Early Life Stage in Fish
72–4(b)	Life Cycle in Aquatic Invertebrates (*Daphnia*/Mysid)
72–5	Fish Life Cycle Study
72–6	Aquatic Organism Accumulation Study
72–7(a)	Simulated Field Tests for Aquatic Organisms
72–7(b)	Actual Field Tests for Aquatic Organisms
Toxicology Data Requirements[9].	
81–1	Acute Oral Toxicity in the Rat
81–2	Acute Dermal Toxicity
81–3	Acute Inhalation Toxicity in the Rat
81–4	Primary Eye Irritation in the Rabbit
81–5	Primary Dermal Irritation
81–6	Dermal Sensitization
81–7	Acute Delayed Neurotoxicity in the Hen
82–1(a)	90–Day Feeding Study in the Rodent
82–1(b)	90–Day Feeding Study in the Non-Rodent
82–2	21–Day Dermal
82–3	90–Day Subchronic Dermal
82–4	90–Day Inhalation in Rat
82–5(a)	90–Day Neurotoxicity in Hen
82–5(b)	90–Day Neurotoxicity in the Mammal (Rat Preferred)
83–1(a)	Chronic Feeding Study in the Rodent
83–1(b)	Chronic Feeding Study in the Non-Rodent
83–2(a)	Oncogenicity Study in the Rat
83–2(b)	Oncogenicity Study in the Mouse
83–3(a)	Teratogenicity in the Rat
83–3(b)	Teratogenicity in the Rabbit
83–4	2-Generation Reproduction Study in the Rat
83–5	Chronic Feeding/Oncogenicity in the Rat
84–2(a)	Gene Mutation
84–2(b)	Structural Chromosome Aberration
84–4	Other Genotoxic Effects
85–1	General Metabolism
85–2	Dermal Penetration
86–1	Domestic Animal Safety
Plant Protection Data Requirements[10].	
Tier 1	
122–1(a)	Seed Germination and Seedling Emergence
122–1(b)	Vegetative Vigor
122–2	Aquatic Plant Growth
Tier 2	
123–1(a)	Seed Germination and Seedling Emergence
123–1(b)	Vegetative Vigor
123–2	Aquatic Plant Growth
Tier 3	
124–1	Terrestrial Field
124–2	Aquatic Field
Reentry Protection Data Requirements[11].	
132–1(a)	Foliar Residue Dissipation
132–1(b)	Soil Residue Dissipation
133–3	Dermal Passive Dosimetry Exposure
133–4	Inhalation Passive Dosimetry Exposure
Non-Target Insect Data Requirements[12].	
141–1	Honey Bee Acute Contact (LD50)
141–2	Honey Bee Toxicity of Residues on Foliage
141–5	Field Testing for Pollinators
Biochemical Pesticides Data Requirements[13].	
(a) Product Analysis Data Requirements.	
151–10	Product Identity
151–11	Manufacturing Process
151–12	Discussion of Formation of Unintentional Ingredients

TABLE 1.—STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS—Continued

Guideline Reference No.	Test of Study
151–13	Analysis of Samples
151–15	Certification of Limits
151–16	Analytical Methods
151–17(a)	Color
151–17(b)	Physical State
151–17(c)	Odor
151–17(d)	Melting Point
151–17(e)	Boiling Point
151–17(f)	Density, Bulk Density, Specific Gravity
151–17(g)	Solubility
151–17(h)	Vapor Pressure
151–17(i)	pH
151–17(j)	Stability
151–17(k)	Flammability
151–17(l)	Storage Stability
151–17(m)	Viscosity
151–17(n)	Miscibility
151–17(o)	Corrosion Characteristics
151–17(p)	Octanol/Water Partition Coefficient
151–18	Submittal of Samples
(b) Residue Data Requirements.	
153–3(a)	Chemical Identity
153–3(b)	Directions for Use
153–3(c)	Nature of the Residue (plants)
153–3(d)	Nature of the Residue (livestock)
153–3(e)	Residue Analytical Method
153–3(f)	Magnitude of the Residue (crop field trials)
153–3(g)	Magnitude of the Residue (processed food/feed)
153–3(h)	Magnitude of the Residue (meat/milk/poultry/eggs)
153–3(i)	Magnitude of the Residue (potable water)
153–3(j)	Magnitude of the Residue (fish)
153–3(k)	Magnitude of the Residue (irrigated crops)
153–3(l)	Magnitude of the Residue (food handling)
153–3(m)	Reduction of Residue
153–3(n)	Proposed Tolerance
153–3(o)	Reasonable Grounds in Support of the Petition
(c) Toxicology Data Requirements.	
Tier 1	
152–10	Acute Oral Toxicity
152–11	Acute Dermal Toxicity
152–12	Acute Inhalation
152–13	Primary Eye Irritation
152–14	Primary Dermal Irritation
152–15	Hypersensitivity Study
152–16	Hypersensitivity Incidents
152–17	Studies to Detect Genotoxicity
152–18	Immunotoxicity
152–20	90–Day Feeding
152–21	90–Day Dermal
152–22	90–Day Inhalation
152–23	Teratogenicity
Tier II	
152–19	Mammalian Mutagenicity Tests
152–24	Immune Response
Tier III	
152–26	Chronic Exposure
152–29	Oncogenicity
(d) Nontarget Organism, Fate and Expression Data Requirements.	
Tier I	
154–6	Avian Acute Oral
154–7	Avian Dietary
154–8	Freshwater Fish LC50
154–9	Freshwater Invertebrate LC50
154–10	Nontarget Plant Studies
154–11	Nontarget Insect Testing
Tier II	
155–4(a)	Volatility Study (Lab)
155–4(b)	Volatility Study (Field)
155–5	Dispenser–Water Leaching
155–6	Adsorption–Desorption
155–7	Octanol–Water Partition
155–8	U.V. Absorption
155–9	Hydrolysis
155–10	Aerobic Soil Metabolism

TABLE 1.—STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS—Continued

Guideline Reference No.	Test of Study
155–11	Aerobic Aquatic Metabolism
155–12	Soil Photolysis
155–13	Aquatic Photolysis
Tier III	
154–12	Terrestrial Wildlife Testing
154–13	Aquatic Animal Testing
154–14	Nontarget Plant Studies
154–15	Nontarget Insect Testing
Environmental Fate Data Requirements[14].	
160–5	Chemical Identity (See also 61–1)
161–1	Hydrolysis
161–2	Photodegradation in Water
161–3	Photodegradation on Soil
161–4	Photodegradation in Air
162–1	Aerobic Soil Metabolism Study
162–2	Anaerobic Soil Metabolism Study
162–3	Anaerobic Aquatic Metabolism Study
162–4	Aerobic Aquatic Metabolism Study
163–1	Leaching and Adsorption/Desorption
163–2	Laboratory Volatility Study
163–3	Field Volatility Study
164–1	Soil Field Dissipation Study
164–2	Aquatic Sediment Field Dissipation Study
164–3	Forestry Field Dissipation Study
164–4	Combinations and Tank Mixes
164–5	Long Term Soil Dissipation Study
165–1	Confined Rotational Crop Study
165–2	Field Rotational Crop Study
165–3	Accumulation in Irrigated Crops
165–4	Accumulation in Fish
165–5	Accumulation in Aquatic Non-Target Organisms
Groundwater Studies Data Requirements[15].	
166–1	Small Scale Prospective Groundwater Monitoring Study
166–2	Small Scale Retrospective Groundwater Monitoring Study
166–3	Large Scale Retrospective Groundwater Monitoring Study
Residual Chemistry Data Requirements[16].	
171–2	Chemical Identity
171–3	Directions For Use
171–4(a)	Nature of Residue in Plants
171–4(b)	Nature of Residue in Livestock
171–4(c)	Residue Analytical Method (Plants)
171–4(d)	Residue Analytical Method (Animals)
171–4(e)	Storage Stability
171–4(f)	Magnitude of the Residue in Potable Water
171–4(g)	Magnitude of the Residue in Fish
171–4(h)	Magnitude of the Residue in Irrigated Crops
171–4(i)	Magnitude of the Residue in Food Handling
171–4(j)	Magnitude of the Residue in Meat/Milk/Poultry/Eggs (Feeding/Dermal Treatment)
171–4(k)	Crop Field Trials
171–4(l)	Magnitude of the Residue in Processed Food/Feed
171–5	Reduction of Residues
171–6	Proposed Tolerance
171–7	Reasonable Grounds in Support of Petition
171–13	Analytical Reference Standard
Spray Drift Data Requirements[17].	
201–1	Droplet Size Spectrum
202–1	Drift Field Evaluation

[1] 40 CFR 158.155: Product Composition; Subdivision D, Product Chemistry: NTIS PB83–153890; Addendum 1, NTIS PB88–191705

[2] 40 CFR 158.160: Description of Materials Used to Produce the Product; 40 CFR 158.162: Description of Production Process; 40 CFR 158.165: Description of Formulation Process; Subdivision D, Product Chemistry: NTIS PB83–153890; Addendum 1 NTIS PB88–1917O5.

[3] 40 CFR 158.167: Discussion of Formation of Impurities; Subdivision D, Product Chemistry: NTIS PB83–153890; Addendum 1, NTIS PB88–191705.

[4] 40 CFR 158.170: Preliminary Analysis; Subdivision D, Product Chemistry: NTIS PB 83–153890; Addendum 1, NTIS PB88–191705.

[5] 40 CFR 158.175: Certified Limits; Subdivision D, Product Chemistry: NTIS PB83–153890; Addendum 1, NTIS PB88–191705.

[6] 40 CFR 158.180: Enforcement Analytical Method; Subdivision D, Product Chemistry: NTIS PB83–153890; Addendum 1, NTIS PB88–191705.

[7] 40 CFR 158.190: Physical and Chemical Characteristics; Subdivision D, Product Chemistry: NTIS PB83–153890; Addendum 1, NTIS PB88–191705.

[8] 40 CFR 158.490; Subdivision E, Hazard Evaluation: Wildlife and Aquatic Organisms, NTIS PB83–153908; Addendum 1, NTIS PB86–248176; Addendum 2, PB87–207700; Addendum 3, NTIS PB88–117288.

[9] 40 CFR 158.340; Subdivision F, Hazard Evaluation: Human and Domestic Animals, NTIS PB83–153916 (old); NTIS PB86–108958 (revised); Addendum 1, NTIS PB86–248184; Addendum 2, NTIS PB88–162292; Addendum 3, NTIS PB88–161179; Addendum 4, NTIS PB88–162227; Addendum 5, NTIS PB88–162219; Addendum 6, NTIS PB89–124077; Addendum 7 NTIS PB89–124065; Position Document, Maximum Tolerated Dose, NTIS PB88–116736.

[10] 40 CFR 158.540; Subdivision J, Hazard Evaluation: Non-Target Plants, NTIS PB83–153940.

[11] 40 CFR 158.390; Exposure; Subdivision K, Reentry Protection: NTIS PB83–153940.

[12] 40 CFR 158.590; Subdivision L, Hazard Evaluation: Non-Target Insect, NTIS PB83–153957; Addendum 1, NTIS PB88–117296.

[13] 40 CFR 158.690; Biochemical Pesticides Data Requirements; Subdivision M, Biorational Pesticides: NTIS PB83–153965.

[14] 40 CFR 158.290; Subdivision N, Chemistry: Environmental Fate, NTIS PB83–153973; Addendum 1, NTIS PB86–247848; Addendum 2, NTIS PB87–208393; Addendum 3, NTIS PB88–159892; Addendum 4, NTIS PB88–159900; Addendum 5, NTIS PB88–161187; Addendum 6, NTIS PB88–161195; Addendum 7, NTIS PB88–191721; Addendum 8, NTIS PB88–191739.

[15] Pesticide Assessment Guidelines for groundwater studies are being developed; for further information, contact EPA's Office of Pesticide Programs, Environmental Fate and Effects Division, Environmental Fate and Groundwater Branch.

[16] 40 CFR 158.240; Subdivision O, Residue Chemistry: NTIS PB83–153961, Addendum 1, NTIS PB86–203734; Addendum 2, NTIS PB86–248192; Addendum 3, NTIS PB87–208641; Addendum 4, NTIS PB88–117270; Addendum 5, NTIS PB88–124003; Addendum 6, NTIS PB88–191713; Addendum 7, NTIS PB89–124598; Addendum 8, NTIS PB89–124606.

[17] 40 CFR 158.440; Subdivision R, Pesticide Spray Drift Evaluation: NTIS PB84–189216.

For further information and descriptions regarding specific data requirements, criteria for testing, and general guidance on data acceptability, consult the FIFRA Accelerated Reregistration—Phase 3 Technical Guidance document (December 24, 1989), and the Pesticide Assessment Guidelines available from the National Technical Information Service (NTIS), Attn: Order Desk, 5285 Port Royal Road, Springfield, VA 22161 (Tel: 703-487-4650).

III. Partial Listing of List B and C Active Ingredients Outstanding Data Requirements

To fulfill its commitments in Phase 4 the Agency is publishing a series of **Federal Register** notices and issuing Data Call-In notices for groups of active ingredients as their outstanding data requirements are identified. The outstanding data requirements of 129 List B active ingredients were published by the Agency among four previous Federal Register Notices at 56 FR 6849, February 20, 1991; 56 FR 37610, August 7, 1991; 56 FR 54852, October 23, 1991; and 57 FR 9474, March 18, 1992. This fifth Notice lists the outstanding data requirements of 31 additional List B and C active ingredients. Remaining supported List B, C and D active ingredients are on a later reregistration schedule and their unfulfilled data requirements will be published in future Notices.

The following Table 2 contains one List B and 30 List C active ingredients and the status of the requirements at this time.

TABLE 2.—OUTSTANDING DATA REQUIREMENTS FOR LIST B AND C ACTIVE INGREDIENTS

Case No.[1]	Chemical No.	Chemical Name	Outstanding Data Requirements(By Guideline Reference No.)
2455	077401	Aminoethanol salt of 2'5-dichloro-4'-nitrosalicylanilide	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–2, 63–3, 63–4, 63–5, 63–7, 63–8, 63–9, 63–10, 63–11, 63–12, 63–13, 70–1(d)*, 71–1(a), 71–2(a), 71–2(b), 72–1(a), 72–1(b), 72–1(d), 72–2(b), 72–4(a), 72–4(b), 81–1, 81–2, 81–3, 81–4, 81–5, 81–6, 82–1(a), 82–1(b), 83–3(a), 84–4, 86–1, 123–2, 161–1, 161–2, 162–3, 162–4, 163–1, 164–2, 171–3, 171–4(a), 171–4(b), 171–4(c), 171–4(d), 171–4(e), 171–4(f), 171–4(g), 171–4(h), 171–4(j)
3023	107001	5-Hydroxymethoxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]octane	61–1, 62–3, 81–3, 82–3, 161–1
3023	100702	5-Hydroxymethyl-1-aza-3,7-dioxabicyclo[3.3.0]octane	61–1, 62–3, 81–3, 82–3, 161–1
3023	100703	5-Hydroxypoly(methyleneoxy)methyl-1-aza-3,7-dioxabicyclo[3.3.0]octane	61–1, 62–3, 81–3, 82–3, 161–1
3030	035605	1,4-Bis(bromoacetoxy)-2-butene	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–2, 63–3, 63–4, 63–5 63–6, 63–7, 63–8, 63–9, 63–10, 63–11, 63–12, 63–13, 72–1(b), 72–1(c), 72–1(d), 72–2(a), 72–2(b), 72–3(a), 72–3(b), 72–3(c), 72–3(d), 72–3(e), 72–3(f), 72–4(a), 72–4(b), 83–3(a), 84–2(a), 84–2(b), 84–4, 160–5, 161–1, 161–2, 161–3, 162–1, 162–3, 163–1, 164–5, 171–2
3038	045502	1,1'-Hexamethylene bis(5-(*p*-chlorophenyl)biguanide), diacetate	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–2, 63–3, 63–4, 63–5, 63–6, 63–7, 63–8, 63–9, 63–10, 63–11, 63–12, 63–13, 81–1, 81–3, 160–5, 171–2, 171–3
3046	064206	4-Chloro-3-cresol	71–1(a), 71–2(a), 72–1(c), 72–2(a), 83–2(a)
3051	069152	Alkyl* amine hydrochloride *(as in fatty acids of coconut oil)	No outstanding data gaps
3052	123702	Methanol, [[[(2-dihydro-5-methyl-3(2*H*)-oxazolyl)-1-methyl-ethoxy]methoxy]methoxy]-	No outstanding data gaps
3063	118901	* 2,3-Dihydro-5,6-dimethyl-1,4-dithiin-1,1,4,5-tetraoxide	81–1, 81–2, 81–3, 81–5, 83–2(a), 123–2, 162–1, 162–2, 162–3, 164–1, 165–1, 171–4(a), 171–4(b), 171–4(c), 171–4(d), 171–4(e), 171–4(j), 171–4(k), 171–4(l), 171–6, 201–1, 202–1
3064	001001	2,6-Dimethyl-*m*-dioxan-4-ol acetate	61–1, 62–1, 62–2, 62–3, 72–1(a), 72–1(c), 72–2(a), 72–3(a), 72–3(b), 72–3(c), 81–2, 82–3, 160–5, 161–1, 161–2, 162–3, 162–4, 163–1, 171–2

TABLE 2.—OUTSTANDING DATA REQUIREMENTS FOR LIST B AND C ACTIVE INGREDIENTS—Continued

Case No.[1]	Chemical No.	Chemical Name	Outstanding Data Requirements(By Guideline Reference No.)
3069	017901	1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride	61–1, 62–2, 71–1(a), 71–2(a), 71–2(b), 72–1(a), 72–1(c), 72–3(a), 72–3(b), 72–3(c), 72–4(a), 72–4(b), 161–1, 161–2, 161–3, 162–1, 162–3, 163–1, 165–4
3070	099001	2-((Hydroxymethyl)amino)ethanol	61–1, 62–1, 71–2(a), 72–1(c), 72–2(a), 84–4, 161–1
3076	102901	Potassium *N*-hyroxymethyl-*N*-methyldithiocarbamate	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 71–2(a), 72–1(a), 72–1(b), 72–1(c), 72–1(d), 72–2(a), 72–2(b), 72–3(a), 72–3(b), 72–3(c), 72–3(d), 72–3(e), 72–3(f), 72–4(a), 72–4(b), 81–1, 81–2, 81–3, 81–4, 81–5, 81–6, 82–3, 83–3(a), 84–2(a), 84–2(b), 84–4, 161–1, 161–2, 161–3, 162–1, 162–2, 162–3, 162–4, 163–1, 164–1, 164–2, 165–3, 165–4
3082	036201	a,a,a-Trifluoro-4-nitro-*m*-cresol	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–6, 63–8, 63–11, 63–13, 70–1(d)*, 72–1(a), 72–1(b), 72–1(c), 72–1(d), 72–2(a), 72–2(b), 72–4(a), 72–4(b), 84–2(a), 84–4, 123–2, 160–5, 162–3, 162–4, 171–2, 171–3, 171–4(a), 171–4(b), 171–4(c), 171–4(d), 171–4(e) 171–4(f), 171–4(g), 171–4(h), 171–4(j)
3085	052001	Mercuric chloride	61–1, 61–2(a), 62–1, 62–2, 62–3, 63–12, 63–13, 71–1(b), 71–2(a), 71–2(b), 71–4(a), 71–4(b), 72–1(b), 72–1(d), 72–2(b), 72–3(d), 72–3(e), 72–3(f), 72–4(a), 72–4(b), 81–1, 81–2, 81–3, 81–4, 81–5, 81–6, 82–3, 83–3(a), 132–1(a), 133–3, 161–1, 162–1, 162–2, 163–1, 164–5, 165–4, 165–5
3085	52201	Mercurous chloride	61–1, 61–2(a), 62–1, 62–2, 62–3, 63–12, 63–13, 71–1(b), 71–2(a), 71–2(b), 71–4(a), 71–4(b), 72–1(b), 72–1(d), 72–2(b), 72–3(d), 72–3(e), 72–3(f), 72–4(a), 72–4(b), 81–1, 81–2, 81–3, 81–4, 81–5, 81–6, 82–3, 83–3(a), 132–1(a), 133–3, 161–1, 162–1, 162–2, 163–1, 164–5, 165–4, 165–5
3095	114801	Dimethoxyazolidine (8CA & 9CA)	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 63–6, 63–8, 63–9, 63–11, 63–13, 71–1(a), 82–3, 161–1
3103	046301	Hydroxyethyl octyl sulfide	82–3, 82–4, 162–1, 163–1
3106	040509	Pennyroyal oil	61–1, 62–1, 62–2, 63–7, 63–8, 63–9, 63–10, 63–11, 63–13, 81–1, 81–2, 81–3, 81–4, 81–5, 81–6, 82–1(a), 82–3, 82–4, 83–3(a), 84–2(a), 84–2(b), 84–4, 86–1, 161–1
3108	114901	* Parahydroxy-2-oxo-phenylacethydroxymic acid chloride	71–1(a), 71–2(a), 71–2(b), 72–1(a), 72–1(c), 72–2(a), 81–1, 81–2, 81–3, 81–5, 82–3, 83–3(a), 84–4, 123–2, 161–1, 161–2, 163–1, 165–3, 165–4, 165–5
3114	097003	3-(2-Methylpiperidino)propyl 3,4-dichlorobenzoate	61–1, 63–13, 72–1(a), 82–4, 163–1

TABLE 2.—OUTSTANDING DATA REQUIREMENTS FOR LIST B AND C ACTIVE INGREDIENTS—Continued

Case No.[1]	Chemical No.	Chemical Name	Outstanding Data Requirements(By Guideline Reference No.)
3119	079084	a-Alkyl* omega-hydroxypoly(oxyethylene)** *(100% C11–C15)	62–1, 63–11, 71–1(a), 72–1(a), 72–1(c), 72–2(a), 81–3, 81–6, 82–3, 83–3(a), 83–3(b), 84–2(a), 84–2(b), 84–4, 132–1(b), 133–3, 160–5, 161–1, 161–2, 161–3, 162–1, 162–3, 162–4, 163–1, 164–1, 164–2, 165–4, 171–4(a), 171–4(b), 171–4(c), 171–4(d), 171–4(e), 171–4(f), 171–4(g), 171–4(h), 171–4(j), 171–4(k)
3119	124601	POE isooctadecanol	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–2, 63–3, 63–4, 63–5, 63–6, 63–7, 63–8, 63–9, 63–10, 63–12, 71–4(a), 71–4(b), 72–1(a), 72–1(c), 72–3(a), 72–3(b), 72–4(a), 72–4(b), 81–6, 82–1(b), 82–2, 82–3, 83–1(a), 83–1(b), 83–2(a), 83–2(b), 83–3(a), 83–3(b), 83–4, 84–2(a), 84–2(b), 84–4, 85–1, 160–5, 162–1, 162–3, 163–1, 163–2, 164–1, 165–1, 165–3, 165–4, 171–2
3122	111801	Poly(iminoimidocarbonyliminoimidocarbonyliminohexamethylene)	61–1, 61–2(b), 63–11, 63–13, 72–1(a), 72–3(a), 72–3(b), 72–3(c), 72–3(d), 72–3(e). 72–3(f), 72–4(a), 72–4(b), 81–3, 81–6, 82–1(a), 82–1(b), 82–3, 83–1(a), 83–1(b), 83–2(a), 83–2(b), 83–3(a), 83–3(b), 83–4, 85–1, 160–5, 162–1, 163–1, 165–4, 171–2
3124	119301	Propyl (3-(dimethylamino)propyl)carbamate	71–1(a), 71–2(a), 71–2(b), 72–1(a), 81–8*, 82–2, 82–7*, 161–1, 161–2, 164–1
3128	002201	Sabadilla alkaloids	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–2, 63–3, 63–4, 63–5, 63–7, 63–8, 63–9, 63–10, 63–11, 63–12, 63–13, 71–1(a), 71–2(a), 71–2(b), 72–1(c), 72–2(a), 81–2, 81–3, 81–4, 81–5, 81–6, 82–1(a), 82–1(b), 83–3(a), 83–3(b), 84–2(a), 84–2(b), 84–4, 85–1, 160–5, 161–1, 161–2, 161–3, 162–1, 162–2, 163–1, 164–1, 165–1, 165–4, 201–1, 202–1,
3136	122001	Methyl 2-[[[[(4,6-dimethyl-2-pyrimidinyl)amino]carbonyl]amino]sulfonyl]benzoate	61–1, 72–1(a), 72–1(c), 72–2(a), 72–4(a), 82–1(a), 82–1(b), 161–1, 161–3, 163–1, 164–1, 165–2, 201–1, 202–1
3138	122301	Alpha-*n*-amyl-butyrol tanol	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–2, 63–3, 63–4, 63–5, 63–6, 63–7, 63–8, 63–9, 63–10, 63–11, 63–12, 63–13, 160–5, 161–1, 162–1, 163–1
3138	122302	Alpha-n-heptyl-butyrol tanol	61–1, 61–2(a), 61–2(b), 62–1, 62–2, 62–3, 63–2, 63–3, 63–4, 63–5, 63–6, 63–7, 63–8, 63–9, 63–10, 63–11, 63–12, 63–13, 160–5, 161–1, 162–1, 163–1
3147	082901	1,3,5-Triethylhexahydro-s-triazine	61–2(b), 72–2(a), 83–3(a), 83–3(b)

[1] List B case numbers begin with "2", List C case numbers start with "3."

KEY: * Special Studies; Guidelines for the following studies are presently being developed (for more information, contact the person named in the Notice):

70–1(d) Special Test Requirements.

81–8 Acute Neurotoxicity Screening--Rat.

82–7 90–Day Neurotoxicity Screening--Rat.

This list contains 31 currently supported List B and C active ingredients reviewed during Phase 4 of reregistration and notes any outstanding data requirements identified as Guideline Reference Numbers. In a number of instances, registrants have

already committed to satisfy many of these requirements, with the remaining requirements being subject to the recently issued Data Call-In notices. Of these, some may have been partially satisfied by studies that can be upgraded or supplemented with additional data. The data needs for specific crops are not presented here; instead the overall Guideline Reference Number is listed if any crop specific data are outstanding, even though some individual crop data requirements under it may be in fact satisfied.

IV. Phase 4 List B and C Data Call-In Notices

Under FIFRA section 3(c)(2)(B) the Agency has issued to affected registrants Phase 4 List B and C Data Call-In notices for the outstanding data requirements that registrants have not previously committed to satisfy for the active ingredients listed on Table 2 of this Notice. Registrants with unfilled data requirements for their active ingredients must respond to the Agency within 90 days of receipt of their Data Call-In Notice to express their intent to satisfy the remaining data requirements. The data requirements identified in the Data Call-In notices must be submitted within the time schedule specified in them. Additional Data Call-In notices for the remaining List B, C and D chemicals not covered by this followup Notice will be sent to the affected registrants, coinciding with the publication of one or more additional **Federal Register** notices in the next several months.

Dated: November 13, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–30512 Filed 12–15–92; 8:45 am]

BILLING CODE 6560–50–F

Federal Register

Wednesday
December 16, 1992

Part VI

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals; December 1, 1992

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status of seven deferrals contained in the First Special Message for FY 1993, which was transmitted to Congress on October 1, 1992.

Rescissions

As of the date of this report, no rescission proposals are pending before the Congress.

Deferrals (Attachments A and B)

Attachment A provides the status of the $930.9 million in budget authority being deferred from obligation as of December 1, 1992. Attachment B provides the status of each deferral reported during FY 1993.

Information from Special Message

The special message containing information on the deferrals that are covered by this cumulative report is printed in the **Federal Register** cited below:

57 FR 46730, Friday, October 9, 1992.

Richard Darman,

Director.

BILLING CODE 3110–01–M

ATTACHMENT A

STATUS OF FY 1993 DEFERRALS

	Amounts (In millions of dollars)
Deferrals proposed by the President.....	930.9
Routine Executive releases through December 1, 1992	---
Overturned by the Congress.....	---
Currently before the Congress.....	930.9

ATTACHMENT B
Status of FY 1993 Deferrals – As of December 1, 1992
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(–): Cumulative OMB/Agency	Releases(–): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 12–1–92
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D93–1	492,736		10–1–92					492,736
Agency for International Development									
Demobilization and transition fund	D93–2	13,750		10–1–92					13,750
DEPARTMENT OF AGRICULTURE									
Forest Service									
Cooperative work	D93–3	364,582		10–1–92					364,582
Expenses, brush disposal	D93–4	40,241		10–1–92					40,241
DEPARTMENT OF DEFENSE – CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D93–5	2,175		10–1–92					2,175
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses	D93–6	7,267		10–1–92					7,267
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund	D93–7	10,123		10–1–92					10,123
TOTAL, DEFERRALS		**930,875**	**0**		**0**	**0**		**0**	**930,875**

[FR Doc. 92–30469 Filed 12–15–92; 8:45 am]
BILLING CODE 3110–01–C

Reader Aids

Federal Register

Vol. 57, No. 242

Wednesday, December 16, 1992

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, DECEMBER

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

63.....59548
65.....59548
71.....56875, 57708, 57709, 57971–58116, 58165–58167, 58754, 59312
121.....59458, 59477–59778
129.....59473
135.....59458
234.....58755

15 CFR

801.....59288

16 CFR

305.....58976

Proposed Rules:

1700.....57397

17 CFR

1.....58703
33.....58976
230.....56826
239.....56826
240.....56973
270.....56826
274.....56826

Proposed Rules:

4.....58760
34.....58422
35.....58423
150.....58760
156.....57116
230.....57397
240.....57027, 57397, 57710
260.....57713

18 CFR

2.....58168, 59289
34.....58168
35.....58168, 59289
41.....58168
50.....59289
131.....58168, 59289
141.....59289
161.....58978
250.....58978
284.....57911, 57952
292.....58168, 59289
294.....58168
300.....59289
382.....58168
385.....58168, 59289
1301.....59802

Proposed Rules:

154.....56876
284.....57031

19 CFR

177.....58706

20 CFR

404.....57665
614.....59798

21 CFR

16.....58400
146.....57666
172.....57960
201.....58356
310.....58356
314.....58942
341.....58356
369.....58356
601.....58942
807.....58400
814.....58400
860.....58400
861.....58400
895.....58400
1240.....57343
1401.....59803

Proposed Rules:

341.....58378
872.....56876

22 CFR

51.....59807

23 CFR

1204.....56991

24 CFR

24.....58326
25.....58326
30.....58326
92.....58862
200.....58326
202.....58326
203.....58326
204.....58326
206.....58326
207.....58326
213.....58326
220.....58326
221.....58326
222.....58326
226.....58326
227.....58326
233.....58326
234.....58326
237.....58326
240.....58326
241.....58326
242.....58326
244.....58326
248.....57312
571.....58139
700.....58042
3500.....56856

Proposed Rules:

251.....59314
252.....59314
255.....59314
905.....59316

26 CFR

1.....57280, 57531, 57668, 58706, 58983
301.....58706, 58984
602.....57279

Proposed Rules:

1.....56877, 57399, 57531, 57971, 57979, 59003, 59319, 59327
20.....57399
25.....57399
31.....58423
301.....58760
602.....57399, 59003

27 CFR

Proposed Rules:

9.....58763

28 CFR

68.....57669

Proposed Rules:

345.....59866
545.....59866

29 CFR

470.....58285
578.....57280
2616.....59206
2617.....59206
2619.....59292, 59293
2621.....59294
2626.....59295
2640.....59808, 59820
2642.....59808
2646.....59812
2649.....59820

Proposed Rules:

1.....57033, 57034
2606.....59003
2612.....59003
2615.....59003
2616.....59003
2622.....59003
2623.....59003

30 CFR

917.....58139

Proposed Rules:

914.....57039
917.....58169
926.....59020
944.....58144

31 CFR

257.....57344
500.....58986

Proposed Rules:

10.....57400
209.....57400

32 CFR

367.....58986
701.....57961

Proposed Rules:

199.....58427

33 CFR

100.....58144
117.....57098, 57962, 57963, 58145, 58710
165.....56991, 57099, 57100, 58146, 58988
334.....58098

Proposed Rules:

117.....57039, 58172

34 CFR

600.....57304
668.....57304

Proposed Rules:

5b.....59860
21.....58100

36 CFR

7.....58711

Proposed Rules:

704.....57979
1222.....57042
1230.....57042

37 CFR

Proposed Rules:

304.....58552

38 CFR

3.....56992, 59296
21.....57101, 57107

Proposed Rules:

21.....58435

39 CFR

Proposed Rules:

111.....58765
3001.....57124

40 CFR

52.....57345, 58989, 58991, 58993, 59300
62.....56857
70.....57347
81.....59300
180.....58147–58149, 58384
180.....59822, 59824
185.....59824
186.....59824
261.....57673
271.....59825

Proposed Rules:

Ch. I.....57402
52.....57045, 57047, 57715, 59022, 59327
61.....56877, 57403
63.....57534
80.....57980
82.....58644
180.....59829
300.....56882
414.....56883
455.....56883

41 CFR

101–2.....56993
101–17.....56994

42 CFR

62.....56994
400.....56996
401.....56996
405.....56996, 57675
406.....58716
410.....57675
414.....57109, 57675

Proposed Rules:

417.....59024
421.....57125
434.....59024
435.....57403
1003.....59024

44 CFR

65.....59303, 59304
67.....59305

Proposed Rules:

67.....59329

45 CFR

1303.....59260
1304.....58084
1306.....58084

46 CFR

170.....58406

Proposed Rules:

16.....59572–59778
28.....57129

47 CFR

22.....56859
63.....57964
69.....56998
73.....56860, 56999, 57347, 57438, 58717
80.....57000

Proposed Rules:

Ch. I.....58436
2.....57049, 57408, 57717
18.....59040
36.....56888, 58767

61.....56888, 58767
63.....57717
64.....56888, 58767
69.....56888, 58767
73.....56894, 57051, 57409, 57411, 58769, 59330
76.....59331
80.....57717
90.....57717

48 CFR

803.....58717
852.....58717
913.....57638
922.....57638
952.....57638
970.....57638
1801.....58718
1804.....58718
1805.....58718
1806.....58718
1807.....58718
1809.....58718
1815.....58718
1817.....58718
1827.....58718
1828.....58718
1833.....58718
1835.....58718
1837.....58718
1839.....58718
1842.....58718
1845.....58718
1849.....58718
1852.....58718
1853.....58718
1870.....58718
2401.....59786
2402.....59786
2403.....59786
2405.....59786
2406.....59786
2409.....59786
2413.....59786
2414.....59786
2415.....59786
2416.....59786
2419.....59786
2425.....59786
2426.....59786
2428.....59786
2432.....59786
2433.....59786
2436.....59786
2437.....59786
2446.....59786
2452.....59786

Proposed Rules:

48.....59274
219.....56895
252.....56895

49 CFR

171.....59308
172.....59308
174.....59308
177.....59308
571.....57000, 57020, 58150, 58406
1180.....57112

Proposed Rules:

16.....59752
23.....58288
40.....59409
199.....59712, 59720–59778
217.....58436, 59608
219.....59588, 59608–59778
220.....58436
350.....59516
382.....59516, 59567–59778
383.....59616
391.....59539
392.....59516
395.....59516
571.....58437, 58444, 59041, 59043
572.....58444
585.....59043
653.....59660–59778
654.....59646

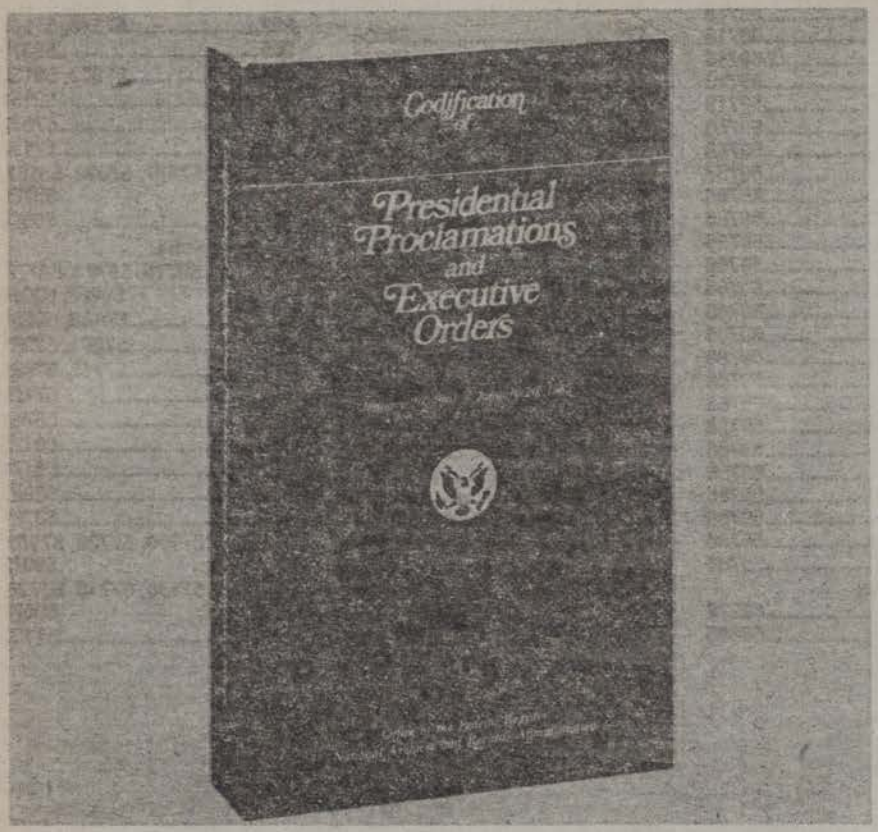
50 CFR

17.....57348, 59236, 59244
227.....57348, 57968
285.....59310
625.....57358, 58150
642.....58151
663.....57377
671.....57112
675.....57377, 57692, 58157, 58726
672.....56860

Proposed Rules:

17.....58770–58774–58779, 59053, 59066
32.....58108, 58930
226.....57051, 57981
611.....57718, 57982
641.....57129
649.....58781
651.....58173
658.....58175
663.....56897
669.....58782
672.....57130, 57726, 57982, 59072
675.....57130, 57718, 57726, 59072
676.....57130

.... Order now ! , , , ,



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